Afecciones astronómicas.—Sale el Sol á las 5 horas 43' de la mañana.—Se pone á las 6 horas 17' de la tarde.

Servicio de la plaza.—Pasada los cuerpos de la guarnicion.—*Gefe de dia:* el teniente coronel D. Francisco Barriero.

De semana.—ESCRIBANO: D. Juan de Eutralgo.—FACULTATIVOS: *médico* Dr. D. Isidro Cordovez.—*Cirujano*, Ldo. D. Manuel Oliveros.

Real Casa de Maternidad.—DIPUTADOS EN EL PRESENTE MES.—El Sr. Arcediano D. Pedro Cordillo.—DIPUTADAS DE TORNO.—Las Sras. Dª Luisa Ofarrill de Ofarrill y Dª Rafaela Ofarrill.



Real Casa de Beneficencia.—DIPUTADO EN EL PRESENTE MES.—El Sr. D. José María Peñalver.

Abasto.—DIPUTADOS EN EL PRESENTE MES.—*Mercado de Cristina:* el Sr. regidor marques del Real Agrado.—*Plaza del Santo Cristo:* el Sr. regidor D. Matias de Meza.—*En el de Tacon, estramuros:* el Sr. regidor D. Francisco del Calvo.—*Idem de ámbos rastros:* el Sr. regidor D. Francisco Céspedes.

Limpieza de la ciudad.—Hoy recogen los carros las basuras de las casas situadas en las calles de E. á O.

Vacuna.—El miércoles próximo se administra el virus en la Sala Capitular á las once del dia.

DIARIO DE LA HABANA.

NUM. 244. Por la Real Sociedad Patriótica, en que se publican todos los asuntos de oficio, y otras materias políticas, literarias, económicas y mercantiles. PAG. 1.

Lúnes 3 de Setiembre de 1838.—Santa Tecla virgen.—*Circular en Paula.*

CORTES.

SENADO

Presidencia del Sr. Moscoso de Altamira

SESION DEL DIA 10 DE ABRIL.

Se abrió á la una, y leida el acta de la anterior fue aprobada.

El Sr. PRESIDENTE dijo, que pasaria á la comision de peticiones, y se tendria presente en tiempo oportuno.

El Sr. secretario TORRES SOLANOT dió cuenta de los nombramientos hechos por las secciones para examinar el proyecto de ley sobre el empréstito de 500 millones propuesto por el gobierno; y concluido el despacho de diferentes espedientes particulares, se procedió á la discucion del proyecto de ley sobre la derogacion de los artículos 75 y 76 del reglamento provisional para la administracion de justicia.

El Sr. GOMEZ BECERRA empezó manifestando que hacia mucho tiempo que tenia sobre este asunto la opinion que habia ratificado ahora; que no se trataba de una cuestion de gabinete, de política, de guerra ni de hacienda; pero sí de una de la mayor importancia y trascendencia; pues se trataba de asegurar la satisfaccion debida á la vindicta pública para la conservacion del órden y de la sociedad misma, y de que los individuos de esa sociedad no fuesen perjudicados en sus derechos mas apreciables; cuestion gravísima; cuyas consecuencias podian ser funestas; y cuestion que se proponia examinar bajo el aspecto de la influencia que deberia tener en el acierto para el fallo de las causas criminales, y bajo el de su influencia en la pronta terminacion de las mismas causas.

En cuanto al primero dijo que no solo influia para el acierto, sino que le perjudicaba altamente. Desechó el argumento de autoridad que podia hacérsele de que las audiencias reclamaban la alteracion que se proponia, porque aunque tribunales muy respetables no siempre podia asegurarse á pesar de su celo que pidieran lo mejor, probando esto el ejemplo de la de Mallorca, que despues de la guerra de sucesion pidió que se mente en los mismos términos que ha pasado del congreso de diputados.

El Sr. PRESIDENTE anunció para el sábado 14 la discusion del proyecto de empréstito, y para mañana á las doce la continuacion del de derogacion de los artículos 75 y 76 del reglamento provisional para la administracion de justicia, despues de avisar á las secciones que se reuniesen á las once para nombrar las comisiones que han de examinar el proyecto de supresion de la biblioteca de las Córtes, y el de ampliacion del artículo 92 de la nueva ley de reemplazos; con lo que cerró la sesion á las cuatro y cuarto.

Habana 2 de Setiembre.

Hasta el 13 de Julio alcanzan los periódicos de Madrid que hemos recibido por el bergantin español que entró ayer tarde en este puerto procedente del de Cádiz con 39 dias de navegacion: de ellos copiamos las siguientes noticias.

España.

Madrid 13 de Julio.

S. M. la Reina, su augusta madre la Reina Gobernadora y la Serenísima señora Infanta Dª María Luisa Fernanda, continuan en esta Córte sin novedad, en su importante salud.

Idem 7 de idem.

Por Real decreto de 6 del actual se ha servido S. M. la Reina Gobernadora nombrar senadores: por la provincia de Alicante á D. José María Reig; por la de Huesca á D. Manuel de Latre [reelegido:] por la de Lugo al conde de Ofalia; y por la de Málaga al conde de Pinofiel, D. José Alcántara Navarro, D. Gaspar Remisa y D. Antonio Remon Zarco del Valle.

—S. M. accediendo á la suplica del coronel de húsares de la Princesa por sí y á nombre de todas las clases del cuerpo, se ha servido mandar por Real órden de 3 del actual que el general en gefe del ejército del Norte, conde Luchana, sea considerado y se le dé á reconora Calamocha retrocediendo á sus guaridas, así como Franco y Urdan que han reemplazado á Espinar y á Cabañero, los que no pasaron del comun de Huesa, sin duda porque tuvieron aviso de bajar Oráa con su division, y en efecto ayer llegó á este vill y hoy ha salido á las tres de la madrugada en direccion á Alcañiz. Nada se ha traslucido de su objeto, pues como buen general, guarda profundo silencio en sus operaciones, y ojalá que todos en lo relativo á la guerra hicieran lo mismo, y otros serian los resultados. Sin embargo, mi modo de pensar es que si por fin viene el general Pardiñas, y con la fuerza que reune él en gefe del ejército del centro pudiera formar tres columnas que á la vez cada una pudiera resistir á toda la faccion Cabrera, y se agolpasen por distintos puntos á Morella y Cantavieja, pronto habian de caer en nuestro poder y quedar reducido el bando rebelde en Aragon á la nulidad porque la chusma está desalentada, porque no pueden saciar ya su sed de oro, y que Cabrera y Forcadell no se ven contentos de atesorar; despues entran los de la junta y gefes de cuerpos, de modo que de lo mucho que roban á los pueblos no llega á los de los zaragüelles y gorro encarnado, y por lo mismo maldicen de todo, y fuera de los mas asesinos y ladrones se retiran á sus casas si se les persigue de veras, aun cuando sea á condicion de volver á sus costumbres si luego se abandona el pais.

Ahora, pues, que creo que el escelentísimo señor general tendrá los elementos necesarios para formalizar el sitio de dichos puntos, es cuando el enemigo se apercibe para su defensa, y caso de hacerse irresistible fijará su atencion en tomar otros fuertes, á no ser que Cabrera obre sin instrucciones de su Rey salvage, que se alucine, y quiera la Providencia castigar tantos crímenes como ha cometido y cometerá en aquel pais, que si esto ocurriese los cuervos se irian á pasar buen verano á las bailias de Cantavieja en cuyos riscos hallarian pasto abundante.

Vitoria 5 de idem.

Ayer á medio dia salió de esta el cuartel general con direccion á Miranda, muchísimo, pues con la columna que vá reuniendo podrá proteger regularmente todo este pais.

Sabemos que Espartero le quiere en estremo, y que aprueba cuanto hace, y estas circunstancias le hacen tanto mas valiente cuanto él lo es de naturaleza.

De lo que ocurra les avisaré á Vdes. si las circunstancias me lo permiten mas que esta última temporada.

PROYECTO

de ley para la instruccion secundaria y superior leido el 29 de Mayo anterior en el Congreso de diputados.

A LAS CORTES.

Señores: Autorizado competentemente por S. M. la augusta Reina Gobernadora, tengo el honor de presentar á la deliberacion del Congreso el siguiente proyecto de ley para la instruccion secundaria y superior. Siendo tan conocidos los principios en que se apoyan la mayor parte de sus disposiciones, y debiendo ademas sujetarse á una discusion detenida y solemne, como la exige la importancia del asunto, creo inútil hacerlo preceder de una larga y molesta esposicion, limitándome por tanto á decir que se ha procurado ponerlo en armonía con nuestras actuales instituciones y con lo que exige la ilustracion del siglo. La sabiduría de ambos cuerpos colegisladores hará desaparecer, sin duda, los defectos que contenga.

TITULO PRIMERO.

De los establecimientos de enseñanza pública.

Artículo primero. Toda enseñanza pública, superior á la primaria, se dará en institutos, en universidades ó en escuelas especiales.

CAPITULO I.

De los institutos.

Art. 2º Los institutos se dividirán en elementales y superiores.

Art. 3º En los institutos elementales se enseñará: gramática española y latina.

2º En las rentas de los diversos establecimientos que con el nombre de cátedras de latinidad, de humanidades ó filosofía, existan en las respectivas provincias, y crea el gobierno conveniente aplicar á este objeto.

3º En la retribucion que pagarán los escolares por sus matrículas exámenes y pruebas de curso.

4º En los arbitrios ó repartimientos que con arreglo á las leyes se hagan en cada una de las provincias para cubrir el déficit que resultare de los fondos anteriores.

Art. 8º Los institutos superiores se considerarán como establecimientos nacionales, y sus rentas consistirán:

1º En las que tengan los establecimientos de instruccion pública que para crear aquellos convenga suprimir.

2º En las retribuciones de matrículas, exámenes y grados académicos.

3º En las cantidades que se les asignen sobre el presupuesto general del Estado.

CAPITULO II.

De las universidades.

Art. 9º Toda universidad se compondrá de un instituto superior y de la enseñanza completa de una ó mas facultades mayores.

Art. 10. Las facultades mayores son: la jurisprudencia, la teología, la medicina y cirujía, la farmacia.

Art. 11. En los pueblos donde se establecieren dos ó mas facultades mayores, podrá el gobierno someterlas á un régimen y administracion comun, ó mantenerlas separadas segun las circunstancias ó la economía lo exigieren; pero en este caso el instituto superior quedará siempre anexo á una de ellas.

Art. 12. Subsistirán por ahora todas las universidades actuales cuyas rentas alcancen á lo menos para sostener una facultad mayor con los institutos superior y elemental correspondientes.

Las universidades que no se hallen en este caso quedarán con el nombre y categoría de institutos.

No se comprenden en las disposiciones anteriores las universidades de Cervera, Alcalá y Toledo, cuyos estudios mayores, sean cualesquiera sus rentas, riores podrán seguir ó ganar dos ó mas cursos simultáneamente, siempre que no se oponga á ello el órden con que se hayan de estudiar las materias, conforme á lo que se disponga en los reglamentos especiales.

Los cursantes de facultad mayor ó en escuelas especiales para cuerpos facultativos habrán de sujetarse precisamente al número de años que señale el reglamento para completar la carrera, sin que por ningun pretesto se permitan simultaneidades, ni se hagan dispensas, conmutaciones ó abonos de ninguna clase.

Art. 20. Al fin de cada curso habrá exámenes públicos generales de las materias que en el se hubieran estudiado; y nadie podrá pasar á otro curso superior sin haber sido aprobado en el que precede.

CAPITULO V.

De los grados académicos.

Art. 21. No podrán conferirse grados académicos sino en los institutos superiores y en las universidades.

Sin embargo, en las escuelas especiales para carreras facultativas podrán tambien obtener los alumnos los grados académicos, siempre que en ellas se hicieren los estudios que estos requieren.

Ar. 22. Los grados académicos son: bachiller, licenciado y doctor.

Art. 23. Habrá bachilleres, licenciados y doctores en letras, ciencias y facultad mayor.

Los reglamentos señalarán los estudios que hayan de exigirse para obtener cada uno de estos grados.

Art. 24. Los que hayan de seguir las carreras de jurisprudencia y teología estarán graduados de bachilleres en letras. Los que emprendan las carreras de medicina, cirugía y farmacia estarán graduados de bachilleres en ciencias.

Art. 25. El grado de licenciado se necesita para ejercer una profesion científica; y los que le reciban quedan habilitados sin necesidad de nuevo exámen para obtener del gobierno el título correspondiente.

Art. 26. El grado de doctor exige estudios y exámenes superiores al de licenciado.

CAPITULO VI.

de su influencia en la pronta terminacion de las mismas causas.

En cuanto al primero dijo que no solo influia para el acierto, sino que le perjudicaba altamente. Desechó el argumento de autoridad que podia hacérsele de que las audiencias reclamaban la alteracion que se proponia, porque aunque tribunales muy respetables no siempre podian asegurarse á pesar de su celo que pidieran lo mejor, probando esto el ejemplo de la de Mallorca, que despues de la guerra de sucesion pidió que se mudara la práctica que de antiguo habia de advertir á los reos en la confesion que el juramento que prestaban no los ligaba para decir la verdad, sino en hechos agenos, peticion que fue desechada por S. M. por los graves inconvenientes que envolvia, asi como los envolvia la reclamacion que hacian ahora las audiencias. Redujo la cuestion á si el exámen y discusion de cinco magistrados inspiraria mayor confianza que el de tres.

De paso hizo manifestacion de que no defendia causa propia, pues el reglamento que se trataba de alterar era del señor ministro Garcia Herrero.

El orador manifestó la gravedad de las penas corporales, y por lo tanto cuán peligroso seria que se cometiese á tres solos individuos la facultad de disponer del honor, y lo que es mas, de la vida de los ciudadanos. Añadió que en el estado en que se encuentra la legislatura penal en España, los jueces casi siempre tenian que fallar de un modo arbitrario, porque no tenian reglas á que sujetarse, ni existia una escala que graduase los delitos y penas que á ellos debieran aplicarse; y de aqui la conveniencia de que las causas criminales fuesen vistas y falladas por cinco jueces, como único medio de garantía hasta cierto punto la seguridad de los españoles.

Terminó su discurso el orador manifestando que por un miserable ahorro no se habian de esponer los ciudadanos y la vindicta pública; mucho mas, cuando no habia el fundamento que se alegaba para ello; por lo cual rogaba al Senado que desechase el proyecto y al gobierno que tuviese á bien retirarle.

Suspendida esta discucion por el Sr. presidente, se dió cuenta del dictámen de la comision de peticiones sobre algunas de estas, el cual dijo el mismo Sr. presidente que se imprimiria en el Diario de las sesiones, para discutirse en la primera.

El Sr. marques de VALLGORNERA, secretario de la comision nombrado para examinar el proyecto de ley sobre autorizar al gobierno para contraer un empréstito de 500 millones de reales, subió á la tribuna y leyó el dictámen de la misma reducido á que el senado se sirva aprobar el proyecto exacta-

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ta de Alicante á D. José [illegible] por la de Huesca á D. Manuel de Latre [reelegido:] por la de Lugo al conde de Olalia; y por la de Málaga al conde de Pinofiel, D. José Alcántara Navarro, D. Gaspar Remisa y D. Antonio Remon Zarco del Valle.

—S. M. accediendo á la suplica del coronel de húsares de la Princesa por si y á nombre de todas las clases del cuerpo, se ha servido mandar por Real órden de 3 del actual que el general en gefe del ejército del Norte, conde Luchana, sea considerado y se le dé á reconocer como coronel titular del referido regimiento, ocupando su nombre el primer lugar en la lista de los coroneles que han mandado aquel cuerpo, en cuya historia se hará particular mencion de esta gracia y del memorable hecho que la produce.

Idem 8 de idem.

—El coronel D. José Bondella, gefe de la segunda brigada del cuerpo de operaciones de la izquierda; atacó en la madrugada del 18 de Junio á la faccion de Castor en las alturas que dominan el pueblo de Secadura, siendo el resultado arrojar de todas sus posiciones al enemigo que se pronunció en completa fuga, y perseguido en todas direcciones tuvo mucha pérdida de muertos y heridos, y ademas dejaron 7 prisioneros.

Idem 10 de idem.

Han salido para Paris como comisionados del gobierno para tratar del empréstito los señores Don Gaspar Remisa, D. J. D'Olhaberriague y Blanco y D. Miguel Polo.

—Villareal continúa preso en Guernica riéndose de los desatinos que, segun dicen, cometen á destajo sus sucesores en el mando de las tropas rebeldes.

Egea 5 de Julio.

Segun parte del gobernador de Sos, un escuadron faccioso se halla en Aybar, y Sanz mas arriba con ocho batallones, y por lo que un espía cogido manifiesta, resulta que el objeto es formar una línea por Salvatierra, Berdum Tiermas y demas pueblos, y bajar á hacer las exacciones que gusten á Un-Castillo, Sadaba y Egea, sin que nadie se lo estorbe, porque la milicia y gentes de los pueblos los abandonan á la menor noticia que se sabe de su aproximacion.

Añade aquel que esperan el movimiento del ejército del centro, para si atacan á Cantavieja ó Morella, bajar á reunirse con Cabrera y amagar á Zaragoza, para impedir aquel objeto de nuestras tropas.

Cariñena 5 de idem.

Llangostera despues de robar los ganados del campo Romanos, salió para cerse irresistible fijará su atencion en tomar otros fuertes, á no ser que Cabrera obre sin instrucciones de su Rey salvage, que se alucine, y quiera la Providencia castigar tantos crímenes como ha cometido y comete en aquel pais, que si esto ocurriese los cuervos se irian á pasar buen verano á las bailias de Cantavieja en cuyos riscos hallarian pasto abundante.

Vitoria 5 de idem.

Ayer á medio dia salió de esta el cuartel general con direccion á Miranda, dejándonos la brigada de la guardia Real provincial: dícese que el ejército va á Navarra á restablecer la línea de Zubiri aunque otros aseguran que se trata de atacar á Estella.

Hace algunos dias se dijo que Villareal habia venido á Aramayona, que la junta de Alava habia salido á recibirle, y que se suponia se le iba á dar algun mando; pero esto ha salido falso, continúa desterrado ó por mejor decir preso en Guernica y ni se le ofrece ni quiere mando.

Daroca 4 de idem.

Hoy ha salido para Cariñena el Escmo. Sr. general en gefe con cinco batallones, el regimiento caballeria del Rey, dos baterías, dos morteros y un gran convoy de municiones y pertrechos, la mayor parte de guerra.

Jaen 30 de Junio.

El rebelde Morillas intentó en la noche del 25 entrar con su gavilla en Iznatorraf; pero fué rechazado con bizarría por la milicia nacional, vecinos y 20 hombres de tropa que á la sazon se hallaban en la misma.

Peñacerrada 29 de idem.

La fortificacion de esta plaza y castillo ya se halla recompuesta; pero se van añadiendo baterías, fosos y murallas que harán inconquistable el punto.

El ejército se va á marchar mañana 30, ó el 1º del que viene, y para guarnecer esta plaza quedarán cuatro compañías de la columna de Zurbano con una compañía de artilleros y 25 caballos.

Se asegura que para mediados de Julio Estella debe estar en nuestro poder, pues aseguran que Espartero lo tiene todo dispuesto al efecto; pero calculamos que para verificarlo aguarda la órden del gobierno.

Vamos que ahora ya no tenemos que quejarnos de la campaña, y si no perdemos el tiempo es imposible levanten mas cabeza los partidarios del despotismo.

Zurbano va á construir un fuerteen el puerto de Rivas para proteger el paso de la Rioja á esta, y no dudamos servirá

De los establecimientos de enseñanza pública.

Artículo primero. Toda enseñanza pública, superior á la primaria, se dará en institutos, en universidades ó en escuelas especiales.

CAPITULO I.

De los institutos.

Art. 2º Los institutos se dividirán en elementales y superiores.

Art. 3º En los institutos elementales se enseñará: gramática española y latina.

Elementos de matemáticas, geografía, cronología é historia, especialmente la nacional, historia natural, física y química, literatura, principalmente la española, ideología, religion y moral.

Dibujo lineal.

Y como estudios accesorios, dibujo natural, el frances y alguna otra lengua viva.

Esta enseñanza será el mínimo indispensable que deberán proporcionar los institutos elementales. Donde los medios lo permitan, los estudios se ampliarán en los términos que lo juzgue conveniente el gobierno.

Art. 4º Se creará un instituto elemental, en los pueblos donde, á juicio del Gobierno, atendidos sus medios, su situacion y necesidades, convenga establecerlo; pudiendo haber uno ó mas institutos en cada provincia, ó uno para dos ó mas provincias segun las circunstancias lo exigieren.

Art. 5º En los institutos superiores se darán cursos completos de cálculo diferencial é integral, mecánica general, física, química, zoología, botánica, mineralogía, literatura, historia, economía política, derecho natural, administracion.

Se enseñará ademas, la lengua griega, árabe ó hebrea segun fuere mas conveniente.

Sin embargo, donde no hubiere fondos suficientes, se podrán suprimir de estas asignaturas las que sean ménos necesarias.

En Madrid y en algun otro punto donde el gobierno lo creyere conveniente, el instituto superior comprenderá en la mayor estension posible el estudio de las materias asignadas á estos establecimientos.

Art. 6º Todo instituto superior tendrá anexo un instituto elemental.

Art. 7º Los institutos elementales se considerarán como establecimientos provinciales. Sus fondos consistirán:

1º En los productos de todas las propiedades, memorias, fundaciones, legados y obras pías, destinadas en la actualidad, ó que en lo sucesivo, bajo estas, ó cualesquiera otras consideraciones, puedan destinarse á la instruccion pública de segunda clase.

En este caso el instituto superior quedará siempre anexo á una de ellas.

Art. 12. Subsistirán por ahora todas las universidades actuales cuyas rentas alcancen á lo menos para sostener una facultad mayor con los institutos superior y elemental correspondientes.

Las universidades que no se hallen en este caso quedarán con el nombre y categoria de institutos.

No se comprenden en las disposiciones anteriores las universidades de Cervera, Alcalá y Toledo, cuyos estudios mayores, sean cualesquiera sus rentas, se trasladarán los de la primera á Barcelona, y los de las otras dos á la universidad de Madrid.

Art. 13. Los fondos de las universidades se compondrán

1º De rentas propias que actualmente tengan ó puedan adquirir en lo sucesivo.

2º De las retribuciones de los derechos de matrículas y grados.

3º De las asignaciones que sobre el presupuesto general del Estado se señalen á las que se contemplen absolutamente necesarias.

CAPITULO III.

De las escuelas especiales.

Art. 14. Las escuelas especiales son: caminos canales y puertos, minas, agricultura, veterinaria, náutica, comercio, bellas artes, artes y oficios, y las que el gobierno juzgue conveniente establecer en lo sucesivo, segun lo requieran las necesidades públicas.

Art. 15. El Gobierno procurando aprovechar los establecimientos existentes, fijará los puntos donde hayan de establecerse las escuelas especiales.

Art. 16. Cuando las circunstancias lo permitan, se establecerá en Madrid una escuela general preparatoria para todos los cuerpos facultativos, ó *escuela politécnica*.

CAPITULO IV.

Del método de enseñanza.

Art. 17. La lengua nacional es la única de que se hará uso en las esplicaciones, libros de testos y ejercicios de toda clase: esceptúanse solo el derecho romano, el canónico, y las instituciones teológicas.

Art. 18. Los libros de asignatura serán elegidos por los claustros á propuesta de los catedráticos, y aprobados por el gobierno, oyendo préviamente al consejo de instruccion pública. Cada tres años, á lo ménos, habrá de hacerse la propuesta para ser renovados ó aprobados de nuevo.

Art. 19. Los cursantes de los institutos elementales tendrán obligacion de estudiar simultáneamente las asignaturas que prevenga el reglamento.

Los alumnos de los institutos superiores estarán graduados de bachilleres en letras. Los que emprendan las carreras de medicina, cirugía y farmacia estarán graduados de bachilleres en ciencias.

Art. 25. El grado de licenciado se necesita para ejercer una profesion científica; y los que le reciban quedan habilitados sin necesidad de nuevo exámen para obtener del gobierno el título correspondiente.

Art. 26. El grado de doctor exige estudios y exámenes superiores al de licenciado.

CAPITULO VI.

Del pago de matrículas y grados.

Art. 27. El Gobierno queda autorizado para fijar las cuotas de matrícula en los institutos elementales desde 100 reales hasta 160.

En los institutos superiores y facultades mayores desde 200 hasta 320.

Estas cuotas se pagarán por trimestres anticipados.

Art. 28. Por el grado de bachiller en letras ó en ciencias se exigirán 300 reales vellon, por el de licenciado 1000, por el de doctor 1500.

Art. 29. Por el grado de bachiller en facultad mayor se pagaran 500 reales, por el de licenciado 1500, por el de doctor 2000.

Art. 30. A los alumnos pobres que hubiesen dado en los estudios anteriores pruebas de capacidad, loable conducta y notable aplicacion, podrá el gobierno dispensarles el pago de matrículas ó de grados, en la forma que determinen los reglamentos.

TITULO SEGUNDO.

De los profesores y catedráticos.

Art. 31. Todos los que se dediquen á la enseñanza en los institutos y universidades se dividen en profesores y catedráticos.

Son profesores todos los que esten habilitados para poder obtener alguna cátedra.

Son catedráticos los que hubieren obtenido alguna cátedra en propiedad.

CAPITULO I.º

Del nombramiento de profesores y catedráticos.

Art. 32. La calidad de profesores para toda clase de enseñanza pública en instituto ó universidad se obstendrá por medio de rigurosa oposicion.

Art. 33. Para ser admitido á concurso se exigirá de los aspirantes.

1º El grado de licenciado en ciencias ó en letras para los institutos elementales.

2º El grado de doctor en las respectivas materias para los institutos superiores y facultades mayores. Sin embargo, se admitirá á oposicion á los lincenciados que hubieren hecho los estudios que des-

pues de la licenciatura se exijan para el doctorado; pero con la condicion de que habrán de recibir este último grado antes de obtener cátedra en propiedad, ó dentro de un corto tiempo despues de obtenerla, bastando para ello el depósito correspondiente sin necesidad de nuevos ejercicios.

3º Un atestado de moralidad y buena conducta dado por la autoridad municipal.

Art. 34. El gobierno fijará anualmente el número de plazas de profesores que convenga sacar á oposicion, y el lugar donde esta haya de verificarse.

Art. 35. Los que tengan títulos de profesores podrán esplicar de estraordinario en los institutos superiores y facultades mayores cualquiera de las asignaturas para que hubieren sido habilitados, prévio el consentimiento del claustro.

Este trabajo será gratuito; pero servirá de mérito para obtenre cátedras en propiedad.

La asistencia á estos cursos, aunque voluntaria, será válida para los alumnos, pagando la matrícula correspondiente á la respectiva asignatura.

Art. 36. Los catedráticos deberán ser nombrados precisamente de entre los que tuvieren título de profesor para la respectiva asignatura. Este nombramiento corresponde al gobierno á consulta del consejo de instruccion pública; escepto en los institutos elementales, en que se hará por la comision provincial de instruccion pública, conforme á lo que mas adelante se previene.

Los actuales catedráticos propietarios conservarán sus plazas, ó tendrán derecho á ser colocados en otras equivalentes.

Art. 37. No obstante, el gobierno podrá, sin los requisitos prevenidos en el artículo anterior, dar algunas cátedras á hombres eminentes por sus conocimientos é ilustracion, ya sean españoles, ya estrangeros, con tal de que hayan publicado alguna obra de conocido mérito, y oyendo préviamente al consejo de instruccion pública.

Art. 38. El claustro general, á propuesta del rector, y conviniendo en ello lo ménos las dos terceras partes de sus individuos, podrá suspender á los catedráticos en el ejercicio de sus funciones, dando parte al gobierno; pero solo este podrá removerlos á consulta del consejo de instruccion pública, con presencia del espediente instructivo que se le pasará al efecto.

En el caso de haber sido condenados por un tribunal de justicia á penas aflictivas ó infamatorias, ó haber abandonado voluntariamente la enseñanza por mas de tres meses, podrá privárseles de todo su sueldo: fuera de estos casos conservarán la mitad del sueldo cuando lleven doce años de enseñanza, y las dos terceras partes si llevaren veinte.

Art. 39. Todos los catedráticos propietarios de un mismo establecimiento literario, escepto los maestros de lenguas vivas y dibujo, son iguales en categoría, y gozarán de las mismas preeminencias y consideraciones, aunque no de igual sueldo.

Art. 40. El gobierno establecerá, cuando sea ocasion oportuna, una escuela normal para formar profesores.

te y sin nota; mas para optar á esta ventaja será preciso haber publicado alguna obra ó tratado sobre la respectiva asignatura, que merezca la aprobacion del consejo de instruccion pública.

Art. 49. Los mismos catedráticos tendrán derecho á la jubilacion con las cuatro quintas partes de su haber á los 25 años de servicio, y con todo el sueldo á los 30.

Si ántes de los 25 años se imposibilitasen para la enseñanza, podrá el gobierno, á consulta del consejo de instruccion pública, señalarles la asignacion que le parezca justa.

Art. 50. Los sustitutos y auxiliares gozarán, cuando estuvieren en ejercicio, de un sueldo igual á la mitad del señalado á la respectiva asignatura, sin que entre en cuentá el aumento personal de que está gozando el catedrático por sus años de servicio.

Este sueldo será pagado por los fondos del establecimiento, escepto en el caso de ausencia voluntaria del propietario, que deberá entónces satisfacerlo de su cuenta.

TITULO TERCERO.

Del régimen interior de los establecimientos de instruccion pública.

Art. 51. Habrá para el régimen interior de los establecimientos de instruccion pública: un rector, un vice-rector, un secretario, el claustro, una junta de disciplina, una junta económica.

Art. 52. El rector será nombrado por S. M. de entre los catedráticos propietarios á propuesta en terna del claustro general, y oido el consejo de I. P.: Su encargo durará tres años, pudiendo el rector saliente ser reelegido.

Corresponde al rector la direccion del establecimiento.

Art. 53. El vice-rector se nombra del mismo modo, y por igual tiempo.

Art. 54. El secretario ha de ser por lo ménos bachiller en ciencias ó en letras; pero no catedrático. Lo nombra el claustro general á pluralidad absoluta de votos.

Art. 55. El claustro es general ó particular.

El general se compone, donde hubiese universidad, de todos los catedráticos.

El particular se compone de los catedráticos correspondientes á una facultad mayor, al instituto superior ó al elemental en sus respectivos casos.

No forman parte del claustro los maestros de lenguas vivas y de dibujo.

El claustro delibera en los asuntos árduos y en los que señale el reglamento. Se reune por convocacion del rector.

Art. 56. La junta de disciplina se compone del rector, como presidente, y de cuatro catedráticos que nombrará por mitad cada dos años el claustro general.

Art. 57. El rector tiene obligacion de convocar esta junta en todo lo relativo á puntos generales de disciplina, á la espulsion de alumnos, á la imposicion de multas á los catedráticos y á la suspension de estos.

Rrt. 58. Las faltas cometidas por los alumnos, serán castigadas por el rector, segun la gravedad del caso, con una correccion privada ó pública dando aviso á los padres ó encargados de los mismos

nas aflictivas ó infamatorias, á no ser que haya obtenido rehabilitacion.

4º Hacerse inscribir como director del colegio en el instituto elemental mas cercano.

5º Manifestar por escrito al rector del mismo instituto el método que piensa adoptar en la enseñanza, y la estension de esta.

6º Dar parte á la autoridad municipal del sitio donde coloca su establecimiento, acompañando un plano del local que le destina.

Art. 65. Para ser profesor en estos colegios se requiere estar graduado por lo ménos de bachiller en ciencias ó en letras.

Art. 66. Los que hubieren estudiado privadamente ó en colegios particulares, para ser matriculados en los institutos superiores, deberán sujetarse á un exámen severo, sobre las asignaturas obligatorias de los institutos elementales, pagando ademas, por derecho de exámen la tercera parte de la matrícula respectiva que en estos se exija.

Art. 67. La segunda enseñanza que se proporciona en los seminarios conciliares se considerará privada para todo aquel que intente matricularse en los institutos superiores, el cual por lo tanto se sujetará á las disposiciones del artículo anterior.

Art. 68. Los estudios de instituto superior y de facultad mayor para ser válidos deberán hacerse precisamente en los establecimientos públicos dirigidos por el gobierno.

Art. 69. No obstante, la enseñanza de las materias que comprenden es libre ya particularmente, ya en establecimientos fundados al efecto, pero sin que los cursos seguidos de este modo puedan servir para formar carrera.

TITULO QUINTO.

De la direccion y gobierno de la instruccion pública.

Art. 70. La direccion y gobierno de la instruccion pública en todos los ramos corresponde al gobierno de S. M. por el ministerio de la Gobernacion de la Península. Para auxiliarlo en sus trabajos habrá un consejo y comisiones de instruccion pública.

CAPITULO I.

Del consejo de instruccion pública.

Art. 71. El consejo de instruccion pública se compondrá de un presidente, de 12 á 20 consejeros, y de un secretario de Real nombramiento.

En el caso de que asista al consejo el ministro de la Gobernacion ocupará la silla de la presidencia.

El secretario tendrá voz, pero no voto en las deliberaciones.

Art. 72. Los consejeros serán nombrados por el gobierno de entre los sugetos mas distinguidos por su saber en las diferentes carreras científicas y literarias, estén ó no ocupados en cualquiera magistratura ó destino público, debiendo recaer una mitad á lo menos de los nombramientos en personas que hayan pertenecido ó pertenezcan á la clase de catedráticos.

Por este encargo, que se considerará como una comision, recibirá anualmente cada consejero la gratificacion de

En su consecuencia, el presidente corresponderá con las autoridades, con los presidentes de las comisiones de instruccion pública y con los rectores de los establecimientos, tomando las providencias y dictando las órdenes para que estuviere autorizado. En los casos que lo crea oportuno consultará al consejo para el mas acertado cumplimiento de este encargo.

CAPITULO II.

De las comisiones de instruccion pública.

Art. 80. En la capital de cada provincia se establecerá una comision de instruccion pública, compuesta del gefe político, presidente; de un individuo de la diputacion provincial nombrado por ella; del rector de la universidad ó instituto que hubiese en la misma capital; de un eclesiástico condecorado nombrado por el diocesano, y de otras tres personas [ó cinco si hubiere universidad] instruidas y celosas sean ó no catedráticos. Estas últimas serán nombradas por el Gobierno á propuesta de aquellos; se renovarán cada dos años, pero podrán ser reelegidos indefinidamente.

Art. 81. Esta comision elegirá un individuo de su seno para secretario, cuyo servicio será gratuito como el de los demas vocales.

Art. 82. Quedan refundidas en estas comisiones las provinciales que establece la ley de instruccion primaria para el régimen y gobierno de las escuelas.

Art. 83. Ademas de las facultades que concede la referida ley á las comisiones provinciales respecto de la enseñanza primaria, tendrán las de instruccion pública las siguientes:

1ª Cuidar de la observancia de los reglamentos literarios, y vigilar la conducta de los catedráticos, rectores y gefes de los establecimientos de enseñanza pública y privada.

2ª Proponer al gobierno los medios de estender y mejorar la enseñanza en la provincia, y las reformas que convenga hacer en los reglamentos de sus establecimientos literarios.

3ª Visitar anualmente por medio de uno ó dos individuos de dentro ó fuera de su seno, á quien se le señalarán las dietas correspondientes, todos los establecimientos de instruccion pública y privada: con respeto á estos últimos, sus atribuciones se limitarán á observar los adelantamientos de los discípulos y los métodos seguidos con mejor éxito.

4º Nombrar comisionados que presencien los exámenes y distribucion de premios en los institutos elementales, ó presenciarlos ella misma.

5º Nombrar de entre los que tengan título de profesor, á propuesta en terna del rector ó del patrono, los catedráticos de los institutos elementales.

6º Cuidar de que no se distraigan de la enseñanza los fondos que la piedad de los testadores haya aplicado á ella; y proponer al gobierno la misma aplicacion respecto de las obras pias cuyo objeto primitivo haya caducado, ó no sea de una utilidad pública.

7º Proporcionar al gobierno todos los datos que le pida sobre la enseñanza, y formar la estadística anual del número de alumnos que asistan á los establecimientos públicos de instruccion, como

—Esto pasa de locura.

—¡Ah! vd. me amará: Soy jóven, rico, libre: en mi carrera busco una ocupacion, no el porvenir: puedo dejarla, conforme la tomé: lo que he empleado, de tiempo y aplicacion en estudios fastidiosos, y en placeres mas fastidiosos todavia: cuanta inclinacion sentia mi pecho por una vida cercada de riesgos, todo lo emplearé ahora, en buscar, en seguir, en adorar á vd.—Cambiaré mi insípida vida, pasada entre matemáticas, revista y cafés, por una bella vida caballeresca, la sola, la única en que hay algo de caballeroso en nuestro siglo. Vd. es en este cupé de diligencia, la infanta desconocida, encontrada casualmente en la selva por un caballero aventurero que á ella se somete con el alma y la vida. Dentro de poco, vd. va á separarse de mí, y no sabré ya donde encontrarla. Se irá vd. sin que yo se lo impida: y luego iré yo rastreando, no tras las huellas de la hacanéa de vd. señaladas en el camino; sino guiado por la fragancia de distincion y de felicidad, que vd. dejará por donde quiera que pase: no la buscaré á vd. en los torneos; pero sí en las reuniones escogidas: no trataré de descubrir á vd asomada al ajimez de algun terrado; sino en un balcon cargado de flores, ó tras la cortina de una ventana. Vd. tendrá padre, hermanos, marido, que la celarán á vd.—y esos serán los rastrillos, los torreones, la alcazaba, que me separarán de mi heroina, y yo.....

¡Cuánta locura en poco tiempo!—cuánto imaginar inconcebible.

—Locuras que ejecutaré: vano imaginar que se convertirá pronto en realidad.

—Deje vd. eso, por Dios! hablemos con mas cordura.

—Quizá no hablo con cordura; pero lo que sé decir es, que hablo muy seriamente.

—¿Y querrá vd. hacérmelo creer?

—¿Ahora? no, no; pero muy pronto, sí: cuando la vuelva á vd. á encontrar: cuando me vea vd. girar al derredor del círculo que recorra, como el satélite esclavo de un hermoso planeta: y entónces conocerá vd. que he dicho verdad.

—Si yo cometiesa la locura de creer á vd. podria hallar los proyectos de vd. aun mas que estravagantes.

Sí, y ahora, tal vez, tendria vd. razon. Pero cuando llegue yo á realizarlos, vd. conocerá, y se dirá á sí misma, que no puede obrar de otro modo: y que la pasion me arrastró.

—He aquí un mundo para mí enteramente desconocido, ¿Con qué, por haber tenido la desgracia de encontrar á vd. he de verme condenada á sus contínuas persecuciones? Y hablando seriamente, á ejemplo de vd.: ¿con qué derecho se ha de venir á turbarme en los ejercicios de mi vida, y de mis hábitos, y de mis deberes, solo porque se le antoja á vd. dar á la suya un interes caballeresco, y de aventuras? ¿Con qué derecho se atacaria á mi reputacion? porque nadie creeria, que sin alguna esperanza, y por mero pasatiempo, se hiciesen tantos esfuerzos. Vd. vé, pues, que si le escucho, es porque me figuro que lee vd. una novela, y nada mas.

—Y piensa vd. que dejaria yo esta [illegible]

que la señora *Buré* se convenció de que en ella no habia fanfarronada alguna, y le dijo:

—No he tratado yo de amenazar. Me obliga vd. á defenderme, y lo hago como puedo. No dudo que vd. será honrado y valiente, y que sabrá dar la vida por una palabra; mas tan frívolo amor no creo valga la pena, de arriesgar tanto.—Y al fin, si yo dijese á vd. quien soy; si le dijese que el arrebato ó locura de un jóven como vd. comprometería para siempre á una muger honrada: y que su aparicion en nuestro pueblo, seria un acontecimiento señalado, y un escándalo sus solicitudes, que me harian el blanco de la calumnia y del ridículo: ¿si todo esto le dijese; no abandonaria vd. sus proyectos?

—. . . . No....

—¿No?

—No, señora: pues al salir de este coche vd. lleva consigo mi vida.... y esto me dá un derecho á la de vd. segun la ley fatal del amor. Padeceré yo por vd. y vd. padecerá por mí..... Nos uniremos en el dolor.... y el dolor es un lazo tan sagrado como el de la dicha.

—Con tal resolucion y firmeza pronunció *Ernesto* estas palabras que la señora *Buré* se estremeció: se sintió como acometida de un vértigo al pensar en lo que oía: examinó de una ojeada todo el cúmulo de inquietudes y dolores que iba á acarrearle la locura de este hombre: y llena de una desesperacion efectiva esclamó:

—¿Y cómo puedo librarme de vd?

Estas sencillas palabras fueron pronunciadas con tal acento de agitacion profunda, que penetraron á *Ernesto*; mas solo por un momento.

—Cierto, la dijo, que me es imposible esplicar el insensato deseo que se apoderó de mí, tan luego como vi á vd.: deseo implacable al que parece me arrastra una especie de predestinacion.... vd. debia ser mia.... Mia, porque emplearé mi vida en alcanzarla; ó de no; se verá vd. pronto libre de mi incansable solicitud.

—No me atrevo á entender á vd.

—Oigáme vd. De todos los recuerdos de la juventud que en medio del aislamiento y frialdad de nuestra existencia, nos deleitan y regalan con su ardiente y pasado calor: de todos estos hijos predilectos de nuestra verde edad, que asoman sus rubias cabezas, á par de nuestro blancos cabellos, y que aprietan con sus templadas manos, nuestro corazon ya arrecido; de todos estos recuerdos nunca son los mas penetrantes y embriagadores, aquellos que entre el placer y el dolor han consumido parte de nuestra vida para no dejar tras sí, mas que una vana palabra. Los mas poderosos, son aquellos momentos de felicidad inaudita, que resplandecen como un incendio en la vida, y que la alumbran y la abrasan por algunos instantes: y que una vez acabados, se nos representan libres de todos los afanes que nos costaron, y de la desesperacion tambien de haberlos perdido. ¿No la ha sucedido á vd. en alguna ocasion oir en medio del silencio del campo ya de noche, ya de dia, la agitacion del viento, ó el ruido lejano del agua? ¿Y no la ha durado á vd. la memoria de aquel sonido, mas que la de la armonía compasadísima de algun concierto? Si esto la

[illegible] veinte.

Art. 39. Todos los catedráticos propietarios de un mismo establecimiento literario, escepto los maestros de lenguas vivas y dibujo, son iguales en categoría, y gozarán de las mismas preeminencias y consideraciones, aunque no de igual sueldo.

Art. 40. El gobierno establecerá, cuando sea ocasion oportuna, una escuela normal para formar profesores.

CAPITULO II.

De los sustitutos y auxiliares.

Art. 41. Habrá en los establecimientos públicos de enseñanza *sustitutos y auxiliares*. Unos y otros serán elegidos por el claustro general de entre los que tengan título de profesor para las respectivas asignaturas.

Art. 42. Los sustitutos son los encargados de regentar una cátedra vacante por muerte, remocion ó suspension del catedrático, ó de reemplazar á este en caso de enfermedad ó ausencia.

Art. 43. Los auxiliares estarán encargados de dirigir una de las secciones en que se dividirán las clases elementales que lo necesiten, á juicio del rector y del claustro, que obrarán en esto segun las circunstancias.

Las funciones de los auxiliares relativamente á la seccion qué se les confie, serán las mismas que las del catedrático respecto de la suya.

Art. 44. Los sustitutos y auxiliares podrán ser removidos por el claustro general, en virtud de espediente instructivo que presentará el rector.

Art. 45. El exacto cumplimiento del cargo de sustituto ó auxiliar servirá de mérito para optar al nombramiento de catedrático.

CAPITULO III.

De las dotaciones de los catedráticos, sustitutos y auxiliares.

Art. 46. Los sueldos de los catedráticos se fijarán, segun las circunstancias de cada establecimiento y enseñanza, en los términos siguientes:

Los catedráticos de institutos elementales, escepto los maestros de lenguas vivas y dibujo de 8 á 12000 reales.

Los de institutos superiores y facultades mayores, de 12 á 20,000

En Madrid podrá señalarse á algunas cátedras hasta el sueldo de 24,000 rs.

Art. 47. Siempre que no haya incompatibilidad entre el cargo de catedrático y el desempeño de cualquier destino de nombramiento real, se podrán reunir ámbos caracteres con sus respectivos sueldos.

Art. 48. El sueldo de los catedráticos en instituto superior y universidad aumentará con sus años de servicio, en la proporcion de un décimo para cada cinco años hasta la 25 de ejercicio constan-

Art. 57. El rector tiene obligacion de convocar esta junta en todo lo relativo á puntos generales de disciplina, á la espulsion de alumnos, á la imposicion de multas á los catedráticos y á la suspension de estos.

Rrt. 58. Las faltas cometidas por los alumnos, serán castigadas por el rector, segun la gravedad del caso, con una correccion privada ó pública dando aviso á los padres ó encargados de los mismos alumnos, con la anulacion de parte ó del todo de la matrícula; con la reclusion por un tiempo moderado, y con la espulsion temporal del establecimiento. Escepto para la correccion privada, el rector deberá para las demas penas consultar préviamente á la junta de disciplina.

El claustro general, oido el dictámen de la misma junta, podrá decretar la esclusion perpetua del establecimiento respecto de aquellos alumnos que por causas graves lo mereciesen.

Art. 59. Cuando los estudiantes cometieren algun delito comun dentro del establecimiento, el rector deberá arrestarlos preventivamente, practicar las primeras diligencias en averiguacion del hecho, y pasarlas con el reo, en el término de 24 horas al juez competente, si este no acudiese primero.

Art. 60. La junta económica se compondrá y nombrará del mismo modo que la de disciplina.

Art. 61. Será obligacion de esta junta.

1º Vigilar el estado de los fondos y la formalidad de los asientos.

2º Ilustrar al rector en las dudas que le ocurran sobre puntos de administracion.

3º Formar anualmente los presupuestos.

4º Examinar las cuentas generales, que presentará el rector, despues de revisadas, á la aprobacion del claustro general.

5º Formar y mejorar los reglamentos de contabilidad.

Art. 62. El rector gozará por este encargo de un sobresueldo ó gratificacion. Al secretario se le señalará un sueldo proporcionado.

TITULO CUARTO.

De la enseñanza privada.

Art. 63. Las materias que comprende la enseñanza de los institutos elementales podrán aprenderse con maestros particulares ó en colegios.

Art. 64. Todo español ó estrangero puede establecer y dirigir uno de estos colegios prévios los requisitos siguientes:

1º Ser mayor de 25 años.

2º Acreditar con certificacion de la autoridad municipal del pueblo donde hubiere residido últimamente, que es de buena vida y costumbres.

3º No haber sido condenado á pe-

[illegible] jetos mas distinguidos por su saber en las diferentes carreras científicas y literarias, estén ó no ocupados en cualquiera magistratura ó destino público, debiendo recaer una mitad á lo menos de los nombramientos en personas que hayan pertenecido ó pertenezcan á la clase de catedráticos.

Por este encargo, que se considerará como una comision, recibirá anualmente cada consejero la gratificacion de 6000 reales.

El presidente, por la categoría que representa, y por las funciones especiales que en esta ley se le señalan, gozará el sueldo de 50000 reales.

El secretario tendrá el de 24000.

Art. 73. El consejo se dividirá en varias secciones encargadas de preparar los trabajos especiales que se han de discutir en junta general.

Art. 74. El consejo examinará y dará su dictámen:

1º Sobre todos los reglamentos ó estatutos parciales que hayan de regir en cualesquiera establecimientos públicos, científicos ó literarios.

2º Sobre la planta de cualquiera de esos establecimientos que se trate de formar de nuevo.

3º Sobre la conservacion ó supresion de los que en el dia existen.

4º Sobre las modificaciones que admitan los métodos de estudios; la especie, número y serie sucesiva de cursos de cada carrera.

Art. 75. Tambien será oido el consejo en la provision de los rectorados y de las cátedras de los institutos superiores y de las facultades mayores, ú otros destinos puramente científicos ó literarios de Real nombramiento.

Art. 76. El consejo propondrá al ministerio de la Gobernacion los inspectores ó visitadores estraordinarios que en cada caso juzgue necesarios para inspeccionar los establecimientos de instruccion pública costeados por el Estado, ó por particulares.

Art. 77. El consejo informará

1º Sobre la remocion de los catedráticos propietarios en los establecimientos públicos.

2º Sobre las reclamaciones de los mismos acerca de la suspension ú otras penas disciplinarias que las juntas de disciplina les hubieren impuesto.

3º Sobre las reclamaciones de los alumnos respecto del caso señalado en el párrafo 2º del artículo 58.

Art. 78. Será tambien atribucion del consejo consultar al gobierno cuanto crea conveniente para mejorar la enseñanza pública.

Art. 79. Para llevar á efecto cuanto se previene en esta ley, el Gobierno encargará al presidente del consejo la parte ejecutiva que tuviere por conveniente en los diferentes ramos de la enseñanza.

la enseñanza los fondos que la piedad de los testadores haya aplicado á ella; y proponer al gobierno la misma aplicacion respecto de las obras pias cuyo objeto primitivo haya caducado, ó no sea de una utilidad pública.

7º Proporcionar al gobierno todos los datos que le pida sobre la enseñanza, y formar la estadística anual del número de alumnos que asistan á los establecimientos públicos de instruccion, como asimismo á los fondos con que se sostengan.

Art. 84. Los gastos de toda clase, debidamente autorizados, que hagan estas comisiones, se incluirán en los presupuestos de las respectivas provincias.

TITULO. V.

Disposiciones generales.

Art. 85. El método científico de los diferentes estudios, la distribucion y combinacion de sus cursos respectivos, los ejercicios literarios, la organizacion gubernativa y económica de los establecimientos de instruccion pública, el número de matrículas y formalidades que se necesiten para recibir los diferentes grados académicos, el sistema de exámenes de toda clase, la formacion y arreglo de las académias de conferencia y demas objetos de esta naturaleza, se determinarán por reglamentos especiales que publicará el gobierno, con sujecion á las bases establecidas en la presente ley.

Art. 86. El Gobierno cuidará, en cuanto lo permita la conveniencia pública, de que se observe religiosamente la voluntad de los testadores, asi con respecto al derecho de patronato, como á no agregar las fundaciones sino á establecimientos situados en la misma provincia, escepto la parte aplicada esclusivamente á la instruccion primaria, que habrá de emplearse necesariamente en el punto designado por el fundador.

Art. 87. Para ser profesor de un establecimiento privado no se exigirá por ahora y hasta pasados tres años el grado de bachiller en ciencias ó enletras; pero habrá de sujetarse el interesado á un exámen ante jueces que designe la comision de provincia.

Art. 88. Quedan derogados todos los planes, reglamentos, Reales cédulas, órdenes y decretos que se opongan á lo dispuesto en la presente ley.

Madrid 29 de Mayo de 1838.—El marques de Someruelos. *(C. N.)*

VARIEDADES.

UNA NOCHE EN DILIGENCIA.

(Estracto sacado de las memorias del Diablo.)

(FINALIZA.)

—¡Vd no ha amado! ¡Ah! mejor: vd. me amará.

[illegible] vez, solo porque se le antoja á vd. dar á la suya un interes caballeresco, y de aventuras? ¿Con qué derecho se atacaria á mi reputacion? porque nadie creeria, que sin alguna esperanza, y por mero pasatiempo, se hiciesen tantos esfuerzos. Vd. vé, pues, que si le escucho, es porque me figuro que lee vd. una novela, y nada mas.

—Y piensa vd. que dejaria yo esta novela sin desenlace?

—Asi lo creo.

—Pues, en verdad, señora, que no es asi; pronto ó tarde tendrá uno.

La señora Buré abrió un vidrio de la portezuela, y se puso á llamar al mayoral.

—¿Qué hace vd. señora? dijo Ernesto.

—Quiero dejar este cupé, caballero, y pasarme al interior de este coche, á un asiento que hay vacío, entre un ganapan y una verdulera: y allí estaré mejor que aquí.

—Vd. es dueña de hacerlo, si quiere; mas la juro á vd. á fe de hombre de honor, que mi partido está ya tomado: y que tarde ó temprano la volveré á ver.

Cerró el vidrio, de nuevo la señora *Buré*, y afectando una tranquilidad que su voz desmentia: dijo:

—A la verdad, que soy yo tan loca, como vd. Le creo á vd. y tiemblo, y me olvido de que esto es una chanza...Vaya: acabe vd. su cuento de encantamientos, que es muy entretenido.

—¡Ah! no se burle vd. mas. Bastante la amo ya á vd. para poder sufrir sus insultos y al mismo tiempo sus burlas. Considere vd. que tiene solo esta noche para dudar de mí: y que yo tengo todo el porvenir, para forzar á vd. á reconocer este amor.

—¿Y se empeña vd. aun?

—Y siempre, y donde quiera que vd. me encuentre, verá en mí los mismos sentimientos, y el lenguaje mismo.

—Y bien, caballero, repuso gravemente la señora *Buré*: le hablaré á vd: tambien con seriedad; aunque con vergüenza. Supuesto que vd. me ame; ó por mejor decir, supuesto que esté vd. desocupado lo bastante, para verificar lo que dice ¿juzga vd. que no tenga yo defensa alguna? Tengo un marido que tiene honor: tengo un hermano, antiguo soldado del imperio: y no seria quizá prudente ponerles en la precision de colocarse entre vd. y yo.

—¡Señora! Busque vd. el apoyo en sí misma; y no me presente como obstáculo lo que á mi edad y en el estado en que me hallo solo seria una razon de perseverancia. Amenazar á un amante con un marido, á un soldado de la restauracion, con un soldado del imperio es lo mismo que llamar á duelo y pelea; y obligarme á ejecutar lo que he dicho.

Pronunció *Ernesto* estas palabras con tal acento de verdadera modestia,

[illegible] algunos instantes: y que una vez acabados, se nos representen libres de todos los afanes que nos costaron, y de la desesperacion tambien de haberlos perdido. ¿No la ha sucedido á vd. en alguna ocasion oir en medio del silencio del campo ya de noche, ya de dia, la agitacion del viento, ó el ruido lejano del agua? ¿Y no la ha durado á vd. la memoria de aquel sonido, mas que la de la armonía compasadísima de algun concierto? Si esto la ha sucedido á vd. alguna vez: conocerá ya cual debe ser mi estado ahora. Amo á vd. y la amo lo bastante para seguirla con amor implacable: para cambiar esta pasion larga y obstinada, por una hora por un momento, un destello solo de felicidad. O vd. será para mí la fortuna que sin cesar se procura hasta que se alcanza; ó aquel tesoro olvidado que hallé casualmente en un paraje que no volveré á ver...

¿Y vd. calla y nada responde?

—¿Y qué puedo responder? No me queda mas que dejar hablar á vd.; pues sus palabras que califiqué de locuras, se han convertido en insultos y amenazas declaradas.

—¡Oh! No crea vd....

—¿Qué no puedo creer? Se encuentra vd. con una muger que le viene á las mientes el desear: y porque esta muger no es lo que vd. se habia inmaginado; como que dice vd. entre sí; „Ya que eres una mujer á quien se puede perder; entrégateme como una muger perdida.“ ¡Odioso y abominable pensamiento!

Calló *Ernesto* por un buen rato, y luego dijo.

—Razon tiene vd. en encontrar culpa en mí, y largo tiempo, y largos años de perseverancia se necesitan, para que yo alcance de vd. aquella estimacion que arranca al cabo aun á pesar del que la concede toda pasion sincera. El tiempo me justificará.

—No necesita vd. de justificacion alguna: prométame vd. renunciar á todos esos proyectos: y queda vd. perdonado. Soy incapaz de odiar á nadie: no me conoce vd.

—Pero vd. me conoce y harto la he ofendido á vd. para que ese perdon con que me brinda, sea otra cosa, que un medio imaginado para desbacerse de un miserable....

—¡Qué palabra!

—¿Puede vd. tenerme por otra cosa, despues de lo que la he dicho? Y ¿debo contentarme yo con dejar esta opinion de mí?

—Mi opinion no tiene el peso que vd. la dá. Vuelva vd. por Dios, á ser lo que sé mostró en un principio; hombre cortés é indiferente y nos separaremos como buenos amigos.

—Lo creo, mas no admito la propuesta.

—Y por qué?

—No me obligue vd. á decirlo. Comenzaría de nuevo quizá á insultarla,

Sentence of the Sailors of the Brig Pearl.
D° " " Ship Wm Engs

Mas si mañana ó pasado, ó mas tarde me halla vd. siguiéndola en todas partes no se maraville vd.

—¡Qué! ¿no desistirá vd?

—Jamás, jamás. Pero ¿dónde vive vd., donde, que ninguno de los hombres que la rodean, la ha hecho conocer cuánta pasion y locura es vd. capaz de inspirar en el corazon del hombre? Quizá cree vd. que represento una comedia: mas ponga vd. su mano sobre mi cabeza y mi corazon y verá que este late con fuerza, y estotra arde inflamada.

Al decir esto habia tomado la mano de la señora *Buré*, y esta sentia el temblor convulsivo que agitaba á *Ernesto*.

Desasiose ella toda témula tambien y aterrada.

—Vd. tiene miedo, la dijo; pero cálmese vd.: mi llagado corazon no sucumbirá: porque le anima una esperanza. Yo volveré á ver á vd.

—¿Mas si le rogase á vd., esclamó la señora *Buré*, con una timidez que mostraba su sinceridad, si le rogase á vd. que no se empeñase en verme: si se lo rogase á vd. en nombre de esa misma locura que le he inspirado?...

—¿En nombre del amor acaso?

—Sea así: en nombre de este amor ¿no me lo concederia vd?

—No, señora, no.

—Esto causará la pérdida mia... ¡Ah! Sea vd. generoso... Le creo á vd. Me amará sin duda: una fatalidad inesplicable inspiró en vd. esta loca pasion; ¿pero es menester acaso que yo la sufra, ó que enloquezca como vd. para librarme de ella?—Cálmese vd. ¿Qué pensaría mañana de la muger que se olvidase de sí hasta ese punto?

—Mañana acabará, señora, este sueño ya que no puede olvidarse quizá: mañana habrá entre vd. y yo un abismo insondable.

—Y quién me lo asegura?

—Mi palabra empeñada y mi vida de la que puede vd. disponer si falto á mi palabra.

—Oigáme vd *Ernesto*: cuanto acabo de oir es tan nuevo y estraño para mí que mi cabeza se pierde, y ni sé lo que me digo, ni lo que me hago. ¡Ah! Jure vd. que despues no tratará de volverme á ver; esto importa á mi reposo, á mi vida á mi felicidad. Si: prométamelo vd.

—Si: yo se lo juro á vd: nunca, nunca.

—¡Dios mio! ¡Dios mio! tened piedad de mi.

Por desgracia (repuso el diablo) no era Dios el tercero que estaba en el cupé de la diligencia: y yo seguramente no me compadecí de esta pobre muger.

¿Y que hizo *Ernesto*, cuando llegó el carruage á Castres? dijo el baron *Luezzi*.

Guardó su palabra, por una hora: dejó partir á la señora *Buré* sin seguirla sin informarse de ella.

¿Y luego?

Luego, ya supo que la señora *Buré* era muger del director de una herrería de allí cerca; supo que el gobierno le habia encargado una obra considerable, y se hizo nombrar por el ministro, inspector del material destinado en ella. Supo ademas, que la familia donde iba á introducirse era numerosa, y que se la citaba lo para su amor criminal; y mayor interés en la intriga.

Vino la tarde, y todos acudieron á sus quehaceres, y dejaron solos á *Ernesto* y á la señora *Buré*.

He alcanzado ya mi perdon? la dijo.

Lo duda vd.? Pero, es preciso tomar algunas precauciones, por causa mia. Esté vd. esta noche en el gran cenador habitable que hay al estremo de nuestro parque: allí estaré yo tambien. Retírese vd. ahora; y con el pretesto de enseñarle á vd. un atajo del camino, le mostraré el cenador.

Pareciéle á *Ernesto* tan fácil su dicha que casi se arrepintió de haber hecho tanto, por conseguir lo que tan pocos obstáculos presentaba. Prometió sin embargo ir á la cita. A media noche golpeó blandamente á la puerta del cenador. Asomose una muger á la ventana, y preguntó:

¿Es vd. *Ernesto*?

Yo soy.

Es preciso trepar hasta esta ventana porque no hallo la llave de la puerta.

La ventana estaba á cinco ó seis pies del suelo: al momento que *Ernesto* principiaba á trepar, sintió que le daba en la frente una especie de anillo de hierro helado, y oyó estas palabras:

Vd. es un infame que faltó á su palabra.

Disparóse el pistoletazo, y *Ernesto* cayó muerto al pie del cenador.

En este pais selvoso y lleno de bosques y lleno de cazadores furtivos y de ventura, nadie se maravillaba de oir un tiro. Oyólo el señor *Buré*, que aun estaba en su herrería, y no se maravilló.

Luego que volvió á su casa encontró á su muger acostada y durmiendo, ó aparentando dormir profundamente. No se descubrieron los asesinos del militar, y la familia de la señora *Buré*, creció á su vista sin que nada alterase jamás los santos afectos que unian la hermana con el hermano, la muger con el marido, la madre con los hijos.

El diablo hizo alto, y dijo al baron *Luizzi*:

¿Y ahora que le parece á vd?

(R. E.)

Habana 2 de Setiembre.

Relacion de los reos que ha sentenciado el Escmo. Sr. Capitan general, con la consulta de los Sres. Consejero honorario Auditor de Guerra, y Auditor en comision Dr. D. Francisco Eusebio de Hevia, por ante mí en todo el mes de la fecha.

Juan Antonio Lopez, presidiario blanco, sumariado por el capitan juez pedáneo del barrio de S. Lázaro en 19 de Julio último, por las heridas que infirió á sus compañeros Manuel Dominguez y Juan del Pego, fue sentenciado en 28 de Julio último á 4 años de recargo, que con los de su anterior condena cumplirá en el ultramarino de Melilla, y 50 azotes á punta de foete en la galera donde cometió el hecho.

Juan Guaneche, blanco, preso en la Real cárcel, fué sumariado por el pedáneo de S. Lázaro en 5 de Julio último, por haber acometido con una cuchilla dos por la capitanía de este puerto y continuada por el ayudante mayor de la plaza D. Manuel Perez Alderete, á consecuencia de la reyerta habida á bordo de dicho buque, se les impuso en 20 del corriente, la pena de 2 meses de prision en la cárcel pública, no habiendo tenido efecto con respecto al último por haber fallecido.

John Taylor, Nelson, Bob, Jius, Ysacc, Jach, marineros de la fragata americana William Engs, presos por el comandante de este puerto, en 9 de Julio último, y sumariados por el ayudante mayor de la plaza capitan D. Manuel Perez Alderete en 10 del mismo, por faltas graves, de subordin cion que cometieron contra el capitan y piloto de dicho buque, fueron sentenciados en 22 del corriente: el primero á 4 años y los demas á 2 años de presidio en la Cabaña.

Agustin Núñez, cabo 2º del batallon de pardos, preso y sumariado por el comisario del barrio del Monserrate, en 28 de Mayo último, por haber ido á comprar billetes de la Real Loteria con 17 pesetas falsas, fué sentenciado el dia de hoy á 6 meses de limpieza en el cuartel de su clase.

Rafael Cabrera, hombre blanco, preso y sumariado por el capitan pedáneo del partido de Guamutas, en 17 de Junio último, por la portacion de una navaja de barbear, fué sentenciado en este dia á 6 años de presidio en la Cabaña.

Habana y Agosto 31 de 1838.—*D. Lorenzo de Larrazabal, escribano de guerra.*

REAL LOTERIA.

Desde el dia 21 de Agosto próximo pasado se abrió la venta de los billetes del sorteo ordinario nº 297 que ha de celebrarse indispensablemente el dia 11 del presente mes de Setiembre, y debiendo continuar espedito el despacho y venta de dichos billetes así en la colecturía principal como en las subcolectarías del casco de la ciudad y estramuros, diariamente por la mañana y tarde hasta la una del diez del mismo, se hace notorio por medio de este aviso para inteligencia del público. Habana 1º de Setiembre de 1838.—Rendon. 3

DE OFICIO.

Avisos.

Precedidas todas las formalidades prevenidas en la Real cédula sobre privilegios de inventos artísticos é introducion de máquinas estrangeras, ha tenido á bien el Escmo. Sr. Presidente Gobernador y Capitan general, espedir la correspondiente de 10 años á D. José Francisco Oton para que pueda usar fabricar ó vender el carro ó carreton que ha inventado para transportar los efectos á que se quiera aplicar sin el auxilio de animales y si tan solo por el empuge de los brazos de un hombre: y para que tenga la publicidad debida manda S. E. se inserte en el Diario de esta ciudad. Habana 1º de Setiembre de 1838.—Antonio María de la Torre y Cárdenas. 2

Por decreto proveido por el Sr. Alcalde ordinario de segunda eleccion, con consulta del Dr. D. José Antonio Valdes, y por ante D. Cayetano Ponton, en el concurso de D. Antonio Blanchie se hace saber á todos los acreedores de este, que se ha nombrado de acompañado del citado Dr. Valdes al Dr. D. Matías de Meza. 2

El mártes 4 del corriente se han de rematar en el almacen de averías de la administracion general de rentas marítimas, 464 sacos maiz: lo que se anuncia al público de órden del Sr. intendente honorario de provincia administrador general para la mayor concurrencia

dentia del Real servicio y público que ocurriere.

REAL SOCIEDAD PATRIOTICA.

De órden del Escmo. Sr. Presidente, Gobernador y Capitan general, se ha dispuesto que durante el tiempo que sea necesario para cierta obra, que debe hacerse en la Biblioteca pública, establecida en el convento de RR. PP. PP. se cierra esta los lúnes, miércoles y viérnes de cada semana, y para inteligencia del público se dá este aviso.—José María Berdier, socio bibliotecario. 4

REAL ACADEMIA

DE JURISPRUDENCIA TEORICO-PRACTICA

de San Fernando.

De órden del Sr. Presidente oidor Dr. D Ignacio Crespo y Ponce de Leon, teniente de Gobernador se nombrán á los siguientes Brs. Académicos para la asistencia en el prescute mes á los estrados de la Real Junta Superior de lo contencioso de Real Hacienda.—Dr. Manuel Gonzalez del Valle.

D. Magin Bori.
D. Pedro Dedin.
Dr. D. Francisco Javier Urrutia.
D. José Guadalupe Dominguez.
D. José Rafael Travieso.
D. Miguel Alonso Peláez.
D. Joaquin Fernandez de Lara.
D. José María Laus y Zequeira.
D. Santiago Romaguera.
D. Pedro José Morillas.
D. José Victoriano Betancour.
D. José Eduardo Gaston.

PARTE JUDICIAL.

Autos.

Por disposicion del Escmo. Sr. Gobernador político, con consulta del Sr. asesor general segundo, está mandado por dicho Sr. se inserte el auto que á la letra sigue: Vistos: cítense en 3 Diarios y con término de tercero dia al moreno Juan, que la noche del domingo 12 del corriente entre 8 y 9 fué por la calzada del Monte con el chino llamado Manuel Diaz hasta el placer del Millo y camino que mira la casa de Figuras donde se separó de él; y al moreno Juan Francisco que la misma noche y á la propia hora acompañó hasta el referido sitio á la negra María del Cármen Granados, llevando en la mano un pañuelo con ropa perteneciente á esta; á fin que comparezan ambos ante el presente escribano para evacuar una diligencia de justicia.—Ezpoleta.—Pinázo.—Andres Pimentel. Habana 31 de Agosto de 1838.—Andres Pimentel. 2

Remates.

Por auto proveido por el Escmo. Sr. Gobernador político, con consulta del Sr. asesor general primero, y por ante D. Antonio Regueira, á consecuencia de la testamentaria de Dª Dolores Diaz, vecina del partido de Managua, se anuncia al público la proposicion que ha hecho el viudo albacea D. Domingo Gil, de adjudicarse todos los bienes que quedaron de la antedicha, consistentes en una estancia de dos caballería de tierra, ubicado en dicho partido, con sus árboles frutales, palmas reales, pozo fértil, cercas, fábricas y demas enseres, once esclavos de ambos sexos, un crecido número de animales y muebles, tasado en 11360 ps., por los dos tercios de su avalúo y 100 ps. mas: el que quiera mejorarla ocurra á verificarlo dentro de ocho dias. 2

Por disposicion del Escmo. Sr. Capitan general, con consulta [illegible] auditor de guerra en su comision Dr. D [illegible]eo Eusebio de Hevia, y por ante D. [illegible]ebrio de Larrazabal, se rematan el dia 4 de Setiembre y dos subsecuentes hábiles á la hora y en el parage de costumbre dos casas, una situada en la calle del Empedrado al nº 10 y la accesoria contigua al 9, esquina que cruza á la calle de Cuba, compuesta de 22½ vs. de frente y 124 de fondo, tasada en 6777 ps 6½ rs.; y la otra en el partido del Horcon camino real de Jesus del Monte acera del O., cuadra y media de la esquina de Teja, situada en las tierras que titulan de Redin, de mampostería, teja, tabla y

ra que en el término de 9 dias se presenten á deducirla, apercibidos de su perjuicio. 2

A consecuencia de los autos criminales seguidos contra el negro José Antonio Cabrera por heridas al de igual clase Jose María Rosi, de que le resultó la muerte ha dispuesto el Escmo. Sr. Presidente Gobernador político, con acuerdo del Sr. asesor general segundo, y por ante D. Antonio Regueira, se cita al negro José Dolores Martinez esclavo de D. José del mismo apellido, para que dentro de tercero dia comparezca en la escribanía de dicho Regueira para de allí pasar al estudio de dicho Sr. asesor á fin de que evacue la diligencia que le está prevenida. 2

Ha dispuesto el Escmo. Sr. Gobernador político, con consulta del Sr. asesor primero de Gobierno, y por ante D. Manuel Fornari, se cite á D. Francisco Perez de Ramillon á fin de comparezca en la escribanía del dicho Fornari y de allí pasar al estudio de dicho Sr. asesor á evacuar cierto acto de justicia. 2

Por decreto del Escmo. Sr. Gobernador político, con consulta del Sr. asesor general primero, y por ante D. Francisco de Escovedo, está mandado que por 3 Diarios se intime á D. Jacobo Cristiano Kruger el traslado que le está conferido del informativo de insolvencia promovido por D. José María Morejon en los autos que contra el sigue sobre pesos, y que otorgue poder instruido y espensado en procurador del número para que con él se entiendan los demas trámites del juicio. 2

Por auto del Escmo. Sr. Gobernador político, con consulta del Sr. asesor general primero, y por ante D. Francisco de Escovedo, se convocan á los herederos de Dª Serafina Brú ó á los que puedan dar razon de estos; para que en el término de quinto dia se presenten en la escribanía del dicho Escovedo á instruirse de la última providencia dictada en la causa criminal formada contra el negro Hilario Cruz por sospecha de ser falsa la licencia que portaba, apercibidos en caso contrario de lo que hubiere lugar. 2

Por auto proveido por el Escmo. Sr. Presidente, Gobernador y Capitan general, con consulta del Sr. asesor general primero, y por ante D. Cayetano Ponton, se citan á todos los acreedores al concurso de D. Sebastian Ignacio de Peñalver y Barreto, para la junta que ha de verificarse el dia 11 del corriente á las 11 de la mañana en el estudio de dicho Sr asesor general, para que con presencia de la operacion practicada por los letrados nombrados de calificadores, se acuerde lo conveniente á las mas pronta conclucion del juicio. con apercibimiento al que faltare de que estará y pasará por lo que acuerde la mayoría. 2

Por auto proveido por el Sr. Alcalde ordinario de segunda eleccion, y por ante D. Cayetano Ponton, se citan á todos los acreedores á los bienes de Dª Rosa María del Rey, para que el dia 10 del corriente á las 11 de su mañana concurran al tribunal á la junta que ha de verificarse para tratarse en ella de todos los puntos pendientes, principalmente sobre el nombramiento de síndico por haberse ausentado el que lo era Ldo. D. Manuel de la Terga, con apercibimiento al que faltare de que estará y pasará por lo que acuerden los que asistieren. 2

A consecuencia de las diligencias que ha promovido D. José Martinez, vecino del partido del Quemado, solicitando esperas de sus acreedores, se ha mandado por el Sr. Alcalde ordinario de primera eleccion, con consulta del Ldo. D. Domingo Marin, y por ante Don Antonio Regueira se convoquen á todos los que lo sean conocidos é ignorados del espresado Martinez á fin de que asistan á la junta que se ha de celebrar en el mismo tribunal el dia 10 del corriente á las 11 de su mañana.

Por decreto proveido por el E[illegible] Gobernador político, con consulta del [illegible] por general 1º, y por ante D. Félix Lanci[illegible], á consecuencia de los autos criminales contra D. Joaquin de Armenteros y otros por escesos se cita á D. Pedro Ibañes con el fin de que comparezca en la escribanía del dicho Lancis á instruirse de las providencias pendientes en este asunto lo cual verificará en el término de nueve dias. 3

PARTE ECONOMICA.

dad: impondrán en la calle de la Lealtad estramuros n 4. 2

SE VENDE una casa de tablas, techos de [illegible] contejamani y teja, con mas de medio solar, frente al colegio de S. Cristóbal en Consiguao: calle del Inquisidor n. 68. 2

SE VENDE un potrero con [illegible] caballerias y cerca de 3 cuartos [illegible] cafetal habiéndolos á su inmediacion [illegible] mejores árboles; está situado en el pa[illegible] Pipian 18 leguas de esta ciudad y 6 de la de Matanzas, solo tiene abiertas 3 caballerias, lo demas montuoso, con algunas maderas buenas, tiene biandas sembradas y algunas fabricas de poco valor, y una laguna, son tierras conocidas por mulatas y cobradas, de buen fondo, se dan con equidad: en la calle del Inquisidor n. 39 impondrá D. Antonio Salom y Olivell. 2

SE VENDE una casita de tablas, techos y embarrado, con su arrimo de mampostería, pasado el puente de Agua dulce en Jesus del Monte acera derecha n. 151: en la barbacoa de Colindante impondrán. 1

De esclavos.

UNA NEGRA como de 23 años, sana sin tachas, buena lavandera y planchadora con mas que principios de costura, de 40 dias de parida, sin cria, con buena y abundante leche, en 500 ps. libres: calzada de S. Luis Gonzaga segunda cuadra á la derecha á la otra puerta de la panadería 3

SE VENDE un negro de 14 á 16 años, sano y sin tachas, con principios de zapatero y ágil para todo servicio: en la zapatería del Buen Gusto calle de la Muralla entre la de la Habana y Compostela. 3

SE VENDEN dos negritas una como de 7 años, la otra de 12 á 14, de regular estatura y bonita fisonomia, propias para enseñarlas al servicio de la mano ú otra cosa; calle de S. Miguel n. 7. 3

UN NEGRO calesero de una y dos bestias, regular zapatero de muger, entiende de cocina, gañan, sano y sin tachas, en 450 ps. libres para el comprador: calle de la Maloja, esquina conocida por del Muerto en la botica.

UNA NEGRA de 28 años, muy buena cocinera, lavandera y planchadora, entiende algo de dulces, muy ágil para la asistencia de un enfermo, sana y sin tachas, en 500 ps. libres para el vendedor: un negrito hijo de esta, de 13 años, muy ágil para lo que quieran aplicarlo, sano y sin tachas, en 350 ps. libres; calle del Teniente-rey n. 28. 3

UNA NEGRA famosa, escelente lavandera, planchadora y enrizadora de primera, jóven, parida de 2 meses, sana y sin tachas, con su cria en 600 ps. libres: barrio de Jesus María calle de Apodaca n. 36 D. Pedro José Padilla tratará de su ajuste: 3

SE VENDE una negra de 20 años, con su cria de dos meses, sin tachas, propia para nodriza por su buena salud: impondrán en la bodega n. 48 calle del Consulado estramuros.

UNA NEGRA de 22 años, buena lavandera y planchadora, sana y sin tachas, en 500 ps.: calle de Mercaderes n. 76. 3

UNA NEGRA de 20 á 21 años, sabe coser, servir á la mano, cuidar niños con perfeccion por haberse ejercitado en ello desde su niñez, sana y sin tachas, en 500 ps. libres para el vendedor: calle de la Gloria n. 226. 3

UNA NEGRA de 18 á 20 años, buena lavandera, planchadora y regular enrizadora, sabe servir á la mano y cuidar niños, sana y sin tachas, en 500 ps. libres para el vendedor: calle de la Habana n. 204. 3

UN NEGRO de 28 á 40 años, buen trabajador del muelle ágil para todo servicio, entiende el frances y el i[illegible] su ajuste: calle de la Habana n. 19 3

UN NEGRO crio [illegible] años, vendedor en la plaza y jornalero, sano y sin tachas, en 400 ps. libres para el vendedor: calle del Sol n. 53. 3

UNA NEGRA jóven, sana y sin tachas, buena lavandera, regular planchadora y cocinera, por su ajuste; calzada Real del Monte número 128. 3

SE VENDE una negra escelente lavandera y cocinera, sana y sin tachas, de una regular edad: en 250 ps. libres para el vendedor: calle de Villegas, casa n. 81.

¿Y luego?

Luego, ya supo que la señora *Buré* era muger del director de una herrería de allí cerca; supo que el gobierno le habia encargado una obra considerable, y se hizo nombrar por el ministro, inspector del material destinado en ella. Supo ademas, que la familia donde iba á introducirse era numerosa, y que se la citaba como el modelo de aquellas costumbres patriarcales, que se encuentran todavia lejos del mundanal ruido en algunas mansiones ignoradas. Y supo que el padre y el marido de la señora *Buré*, eran dos de aquellos rígidos protestantes, que conservan la austoridad de su fé, en el honor de su familia. Se hablaron aun de estrañas desgracias, ocurridas en esta casa, y del desaparecimiento de una hermana de la señora *Buré*, doncella seducida, á quien no se atrevia nadie á infamar, porque respetaban sus desgracias, hasta que desapareció.

Si hubiera conocido *Ernesto*, que la muger que espantó con sus locas amenazas no era mas que una aventurera, incapaz de comprometerse con él mas que con otro, no habria, en verdad, solicitado el que le destinasen á la herrería de que era dueña. Pero esta era una muger que del todo tenia que perderse, á quien no habia conducido aun al total olvido de sus deberes y no queria, pues, dejar su obra incompleta. La vanidad de seductor se aumentó todavía con la vanidad de oficial mozo. ¡Un hermano y un marido terribles! hubiera sido una cobardía renunciar á la conquista de la hermana y la muger de estos dos héroes: interesado estaba el honor de *Ernesto*, y se trataba de su felicidad, Yo puedo asegurar á vd. que él se lo persuadió á sí mismo. Se creyó bastante enamorado, para perdonarse su falta de palabra: y supuso que la señora *Buré* tendria la misma induljencia por un amor demasiado fuerte, para ser infiel al honor.

La noticia del nombramiento del señor *Labitte* llegó á la herrería, felizmente para la señora *Buré*, á tiempo que cuando se presentó, pudo recibirle con tranquilidad tan aparente, que *Ernesto* tuvo motivo para creer, que hubiera hecho muy mal en no faltar á su palabra. *Ernesto* vivia en la aldea cercana á la herrería, pero la señora *Buré* le convidó á su mesa. El jóven militar se halló de repente en presencia de esta santa y numerosa familia, en la que iba á introducir el desórden; y en la que brillaba la señora *Buré*, buena y apacible, como el centro en el cual se anudaban los afectos de toda la casa.

Este cuadro penetró á *Ernesto*, y pensó en partir; mas su entendimiento discutió lo que de pronto habia pensado y lo calificó de tontería. *Ernesto* vió aun en esta santa pureza de la familia, un ve[illegible]

Julio último á 4 años de recargo, que con los de su anterior condena cumplirá en el ultramarino de Melilla, y 50 azotes á punta de soete en la galera donde cometió el hecho.

Juan Guaneche, blanco, preso en la Real cárcel, fué sumariado por el pedáneo de S. Lázaro en 5 de Julio último, por haber acometido con una cuchilla prohibida á los presidentes de la galera, donde se hallaba, fué sentenciado en 7 del corriente á 6 años de presidio en la Cabaña sin perjuicio de la causa porque se hallaba preso.

Quintin Barrera, negro preso por el teniente del barrio de Jesus María D. Francisco Alcalá, y sumariado por el capitan de dicho barrio D. Manuel de Moya, en 13 de Julio último, por la portacion de un puñal, fué sentenciado en 7 del corriente á 6 años de presidio en la Cabaña, y 50 azotes á punta de soete.

José Trujillo, negro preso por el cabo de ronda de Jesus María D. Pedro Isquierdo, en 9 del presente, y sumariado por el capitan de dicho barrio D. Manuel de Moya, en la misma fecha por la portacion de una cuchilla prohibida, fué sentenciado en 11 del corriente á seis años de presidio en la Cabaña.

Cirilo de Zayas, moreno preso y sumariado por el pedaneo del barrio de Guadalupe, en once de Julio último por faltas á personas blancas fué sentenciado en 11 del corriente, á seis meses de limpieza en el cuartel de su clase.

Pedro Acosta, pardo preso en 18 de Enero de 1836, á consecuencia de la sumaria formada por el pedáneo que fué del barrio de S. Lázaro, D. Francisco Antonio Palicio, para descubrir los autores del robo de varias prendas y dinero que hicieron á Dª María del Pino Sosa, que resultaban indicios de complicidad contra el referido Acosta, fué sentenciado en 16 del corriente á dos años de obras públicas en las de la nueva cárcel, atendido el tiempo de su prision.

José María Galves, negro preso y sumariado por el comisario del barrio de S. Isidro, en 28 de Diciembre del año pasado de 1837, por la herida que infirió al pardo Manuel Escoto, de que le resultó la muerte, fué sentenciado en 17 del corriente á 10 año de presidio en la Cabaña.

Pedro Aragon, hombre blanco preso por el teniente del barrio de Jesus María D. Francisco Alcalá, en diez del corriente y sumariado por el capitan de dicho barrio en la misma fecha por reyerta y portacion de una cuchilla prohibida, que arrojó al suelo al tiempo de registrarlo, fué sentenciado en 21 del que cursa á 6 años de presidio en la Cabaña.

William James, Chales Dum y Richard Wildos, marineros, pertenecientes al bergantin americano Pearl, sumaria-

Cayetano Fuentes, en el concurso de D. Antonio Blanchie se hace saber á todos los acreedores de este, que se ha nombrado de acompañado del citado Dr. Valdes al Dr. D. Matías de Meza. 2

El mártes 4 del corriente se han de rematar en el almacen de averías de la administracion general de rentas marítimas, 464 sacos maiz: lo que se anuncia al público de órden del Sr. intendente honorario de provincia administrador general para la mayor concurrencia de licitadores. Habana 1º de Setiembre de 1838.—Yurre.

El mártes 4 del corriente se han de rematar en el almacen de averías de la administracion general de rentas marítimas, 14 piezas de zarazas: lo que se anuncia al público de órden del Sr. intendente honorario de provincia administrador general para la mayor concurrencia de licitadores. Habana 1º de Setiembre de 1838.—Yurre. 3

El Estado mayor pasará la revista de comisario, del mes el dia 10 á las 5 de su tarde en el parage de costumbre.—Zurita.

El lúnes 2 del corriente se han de rematar, 180 fusiles que existen en depósito en los almacenes de artillería, y cuyas muestras se presentarán en el acto del remate; el que ha de verificarse en el de averías de la administracion general de rentas marítimas: lo que se anuncia al público de órden del Señor intendente honorario de provincia administrador general para la mayor concurrencia de licitadores. Habana y Agosto 31 de 1838.—Yurre.

EDICTOS.

DON JOAQUIN DE EZPELETA Y ENRILE, Gran cruz de la Real órden Americana de Isabel la Catolica, condecorado con la de San Jorge de Nápoles y otras de distincion por acciones de guerra, Teniente general de los Reales ejércitos, Gobernador de la Plaza y provincia de la Habana, Capitan general de la Isla de Cuba, Presidente de la Real Audiencia que reside en la ciudad de Puerto-Príncipe en la propia Isla, de la Asamblea provincial de la Real órden Americana de Isabel la Católica y del Tribunal de apelaciones para los negocios y causas de comercio de esta Provincia, Delegado del Juzgado de la Real Casa y Patrimonio en esta isla, y de la Superintendencia general de Correos, Postas y Estafetas, y de la Real compañía de la Habana, &c. &c. &c.

Por esta mi primer carta de edicto cito, llamo y emplazo al moreno Rufino Paredes, para que en el término de 9 dias se presente en la cárcel pública á descargarse de la culpa que le resulta en los autos criminales sobre averiguar el autor de la muerte inferida al de igual clase Juan Granados, cierto de que si así lo hiciere se le oirá y administrará justicia y de no se le seguirá la causa en rebeldía, parándole todo perjuicio y por bastante los estrados de audiencia para las notificaciones; que así lo tengo dispuesto con la consulta del Sr. asesor general segundo á consecuencia de los autos del asunto. Habana y Agosto 20 de 1838. —Ezpeleta.—Por mandado de S. E., Félix Lancis. 3

REAL RENTA DE CORREOS.

El bergantin español Oriente que ha de dar la vela para el puerto de Gijon el dia 3 del corriente, recogerá en esta administracion general el dia 3 á las 7 de la mañana la correspondencia del Real servicio y público que ocurriere.

La fragata española Aurelia que ha de dar la vela para el puerto de la Coruña el dia 3 del corriente, recogerá en esta Administracion general el dia 3 á las 7 de la mañana la correspon-

se remate el dia 6 á un mediomes y dos subcuentas hábiles á la hora y en el parage de costumbre dos casas, una situada en la calle del Empedrado al nº 10 y la accesoria contigua al 9, esquina que cruza á la calle de Cuba, compuesta de 22½ vs. de frente y 12½ de fondo, tasada en 6777 ps 6½ rs.; y la otra en el partido del Horcon camino real de Jesus del Monte acora del O., cuadra y media de la esquina de Teja, situada en las tierras que titulan de Redin, de mampostería, teja, tabla y guano, de 25½ vs. de frente y 80 de fondo, tasada en 2394 ps. 6 rs.: el que quiera hacer postura ocurra á la escribanía de guerra á instruirse. 3

Por auto proveido por el Escmo. Sr. Gobernador, con consulta del Sr. asesor general primero de gobierno, y por ante D. Antonio Regueira, á consecuencia de los autos testamentarios de Dª María Hernandez Perdomo, se anuncia al público la proposicion que ha hecho D. Estanislao Gonzalez de adjudicarse los bienes quedados por fallecimiento de la antedicha, consistentes en un potrero ubicado en el partido de Baynoa, con sus tierras fábricas, esclavos y animales, tasado en 1258[illegible] ps. 2 rs., por los dos tercios de su avalúo y 50 ps. mas, en esta forma: se le rebajará lo que importare su legítima, lo que á su favor resulta estarle adeudando la masa segun la cuenta aprobada de fojas 63 el impuesto que reconocen las tierras á favor del Sr. conde de Baynoa, asegurar en el mismo fundo el haber de los menores hijos de D. Laureno su hermano abonándoles de réditos un 5 por 100 anual, reconocerá en la misma finca lo que pertenezca á su padre por el capital que aportó al matrimonio, como por la parte de gananciales que en divisoria le corresponda, abonando asi propio el rédito de un 5 por 100, descontando de este lo que invirtiere en su mantencion por hallarse á su abrigo, y el resto á razon de 1000 ps. cada año cuyo primer plazo se deberá contar al vencimiento del año de la fecha en que se le dé libre y espedita la posesion de la finca, satisfaciendo de contado las costas procesales: el que quiera mejorar dichas proposiciones ocurra á verificarlo. 3

Convocatorias.

Comision Militar.—Ignorándose el paradero actual de D. Dionisio de Sotres, caminero que fué del castillo de la Punta en Diciembre del año de 1836, y declaró en una de las causas que se encuentran á cargo del fiscal teniente coronel D. José María de Pierra; ha dispuesto dicho Sr. se convoque por medio del Diario de esta ciudad en 3 consecutivos, para que se presente en la morada del espresado Sr. calle de Jesus María nº 9 última cuadra para salir á la alameda de Paula á efecto de ratificar aquel acto. Habana 1º de Setiembre de 1838.—Lorenzo Baltanaz, secretario. 2

Comision Militar.—Ignorándose la residencia actual de D. Alejandro Capiró, quien por consecuencia de un asalto y robo que sufrió en la jurisdiccion de Guamutas, declaró en aquel partido sin espresar el lugar de su vecindad, se le advierte por medio de este anuncio, que inmediatamente llegue á su noticia se presente en el ministerio Fiscal del capitan de caballería D. José María Puente, sito en las inmediaciones del Diorama calle de Santa Bárbara (nueva casa de balcon, para ratificar su indicada declaracion y evacuar otra diligencia de justicia. Habana 1º de Setiembre de 1838.—Fernando Fuero, secretario. 2

Por auto proveido por el Escmo. Sr. Gobernador político, con consulta del Sr. asesor general primero, y por ante D. Pedro Vidal Rodriguez, se anuncia al público haberse declarado intestado el fallecimiento de Dª Josefa de Sierra, y por sus herederos á los que segun derecho deban serlo, se convocan á los que se consideren con accion á sus bienes por

D. Joaquin de Armenteros y otros por escnos se cita á D. Pedro Ibañes con el fin de que comparezca en la escribanía del dicho Lancis á instruirse de las providencias pendientes en este asunto lo cual verificará en el término de nueve dias. 3

PARTE ECONOMICA.

Ventas de fincas.

SE VENDE por su ajuste; una casa de alto y bajo, calle del Sol n. 26, con dos salas, que la una da al callejon de la Samaritana, dos comedores, 6 cuartos, dos accesorias, pozo, caballeriza y demas menesteres: en la subinspeccion de Infanteria en la casa de Gobierno, el subteniente del regimiento de la Habana D. Vicente Barrutia impondrá, ó en la calle de Compostela n. 163.

SE VENDE un sitio en el partido de Doña María, compuesto de media caballería y cordeles de buena tierra de labor, casa de vivienda de mampostería y guano, cocina y gallinero, buen platanal con mucho café y hermosa arboleda, pozo fértil, cercado de piedra: impondrán en Jesus del Monte en la botica de D. Juan de Dios Cabañas.

SE VENDE con bastante equidad, una casa sita en Mordazo, frente á la iglesia, de mampostería y teja, fabricada en un solar, con colgadizo, cochera para dos carruages, sala, comedor, 4 cuartos seguidos, cocina y demas menesteres, propia para tomar baños, pues por el fondo le pasa el rio de Puentes Grandes; en la casa inmediata D. Domingo Rios tratará de su ajuste.

SE VENDE la casa principal que fabricó el Pbro. Taboadela en la villa de Guanabacoa, calle Real frente á otra de la Sra. Dª Rosalia del Corral. La situacion es inmejorable y las muchas piezas de que se compone hacen la adquisicion muy ventajosa: tratará de su ajuste en dicha villa, el Ldo. D. Cayetano Nuñez de Villavicencio, y en esta ciudad en casa de los Sres. Elosua calle Real de la Salud. 2

UN POTRERO de 5 caballerías de tierra muy superior, cercado todo de piedra con sus divisiones de lo mismo, propio por su feracidad y situacion para dedicarlo á siembras de café ó lo que mas acomode, pues está situado muy contiguo al pueblo del Caimito, media legua del de Guayaval, una del de la Vereda Nueva y 9 de la ciudad, linda por el Sur con el cafetal y potrero de la viuda de D. Juan Bautista Hernandez, por el frente con la de D. Manuel Abreu y D. Manuel Palacios por donde atraviesa el camino y sigue á la ciudad y Guanajay, casa de vivienda, otra para cocina, otra de escuta y su gallinero, dos pozos muy fértiles con sus aguas potables, un cuarto de caballería poco mas ó ménos sembrado de café y plátanos, 4 negros, animales y demas necesario á lo que está dedicado; por su ajuste: se admite en cuenta casas en la ciudad ó estramuros en buen punto: impondrán en Guanabacoa casa conocida por los baños del Español. 5

SE VENDE una hermosa casa de mampostería y teja, de alto y bajo, situada en el pueblo de Cabañas, propias para un establecimiento pues ha sido fabricada con dicho objeto: otra contigua de tablas y tejas, ámbas por su ajuste: calle cerrada de Sta. Clara n. 26. 5

UNA CASA en la calle de Manrique de mampostería y teja, situada entre la calle de la Estrella y calzada de S. Luis Gonzaga: impondrán en la calle cerrada de Sta. Clara n. 26. 3

SE VENDE una estancia ubicada en el partido de Arroyo Naranjo nombrada la Portuguesa, con caballería y tercio de tierra, una casa y una esquina que ya estan alquiladas para bodega, sitas en la calle de Manrique esquina á la de la Estrella, todo con mucha equi-

en 400 ps. libres para el vendedor: calle del Sol n. 53. 3

UNA NEGRA jóven, sana y sin tachas, buena lavandera, regular planchadora y cocinera, por su ajuste; calzada Real del Monte número 128. 3

SE VENDE una negra escelente lavandera y cocinera, sana y sin tachas, de una regular edad: en 250 ps. libres para el vendedor: calle de Villegas, casa n. 81.

SE VENDE ó se cambia por una negra que sea lavandera, planchadora y cocinera, un negro de 28 á 30 años, buen servicial á la mano, sano, advirtiendo que la negra debe ser sana y sin tachas: el portero de esta prenta impondrá. 16

UNA NEGRA lavandera y cocinera, sana y sin tachas, de 24 años, con tres ps. libres para el vendedor: una criolla de años, buena lavandera y cocinera, sana y sin tachas, coartada en 400 ps. libres: en Aguacate n. 78. 2

UNA NEGRA criolla, sana y sin tachas de 16 años, cocinera y lavandera de un mediano, en 20 onzas libres para el vendedor, ó se cambia por un negrito jovencito sano y sin tachas: calle de la Concordia junto á la esquina de la de Finis. 2

UN NEGRO de 20 años, sano y sin tachas, con principios de cocina, zapatero de muger, en 350 ps. en el convento de Sto. Domingo de Guanabacoa impondrán. 2

SE VENDE una negra de 18 á 20 años, ágil para el servicio de una casa y con principios de costura, ó bien se cambia por un negrito que sea propio para page: calle de la Habana n. 101. 2

SE VENDEN en precio sumamente equitativo, por no necesitarse para el objeto que se compraron, 3 negros sanos y sin tachas, un baron de 22 años, de campo, una negra como de 30 años, cocinera y lavandera, tambien entiende de vender ropa, y su hija de 5 años muy bonita y propia para cuidar niños; calle de la Concordia casa de mamposteria frente á la esquina del Chivo junto á la laguna que se está cegando en el barrio de S. Lázaro. 2

UNA NEGRA criolla con su cria de 8 meses, en 500 ps. libres para el vendedor, sana y sin tachas, buena lavandera y servicial á la mano: calle de [illegible]haron n. 42. 1

UN NEGRO jóven, muy robusto, propio para el campo, sano y sin tachas, en 400 ps. libres para el vendedor; calle del Teniente-rey n. 51. 1

UNA NEGRA criolla de 16 años, lavandera y planchadora, por su ajuste; calle del Consulado esquina frente al taller de maderas de D. Ramon Herrera. 1

UN NEGRO calesero y zapatero de muger, sano y sin tachas, por su ajuste; calle del Consulado esquina frente al taller de madera de D. Ramon Herrera. 1

De alhajas, muebles &c.

LOSAS DE MARMOL de Italia, propias para suelo, se venden con equidad: calle de la Amargura n. 90. 4

EN LA BOTICA del Peñon estramuros se vende limonada gaseosa legítima, á 2½ rs. la botella. 5

EN LA TIENDA la Guayarmina sita en la calle de S. Miguel esquina á la de Manrique, se ha recibido un elegante surtido de ropas y se vende con la mayor equidad y arreglado á quemazon por 15 dias. 8

QUEMAZON. La que de ropas, libros y sombreros: ha vuelto á salir á precios bastante mas bajos la última semana, en la tienda del Sol calle de la Muralla esquina á la del Aguacate, continúa hasta su realizacion que debe ser dentro de breves dias. Véndese tambien con su caja una famosa guitarra. 5

SE VENDE la sombrerería de la calle del Obispo n. 115: en la misma impondrán. 4

SE VENDE el establecimiento de tabaquería situado en la plaza de Cristina casilla n. 9, pudiendo asegurarse ser uno de los mejores puntos por los individuos del muelle que concurren por las mañanas á dicho mercado, sirviendo igualmente para cualquier establecimiento por su localidad: impondrán en la misma. 3

SE ACABAN de recibir un hermoso surtido de semillas de hortaliza y flores de las clases siguientes: acelgas, escarola, remolacha, zanarias, lechuga de repollo, lechugas tiernas, lechugas morada, col de repollo, repollo imperial, col lombarda, nabos blancos redondos del Norte, nabos blancos largos, brócoli, colinabo, coliflor, rabanitos redondos blancos, id. redondos y rosados, rábano largo y rosados, pimientos dulces grandes, cebollino de Canarias, espárragos, peregil, apio, tomates grandes, chicoria, borraja, espinacas, chiribias. calabazas grandes y mas de setenta especias de semillas de flores todas muy frescas; calle del Obispo n. 41 donde venden el rapé y las flores. 5

VINO DE CHAMPAGNE.—En la calle de Sta. Teresa n. 78, casa de los Sres. Polo Buscklé y compañía, se vende una partida de vino de champagne de superior calidad, en canastos de á 12 botellas llegado recientemente, y por realizar esta partida se dará á precios equitativos, haciendo diferencia de mayor á menor. 3

EN LA BODEGA de la Jaiba frente al campo de Marte, se vende arroz del Norte por mayor y menor: y se venden unos cajones de tabaco torcido. 6

CEBOLLINO superior de Canarias, con el fin de realizar una factura, y otras varias clases de semillas á precios muy cómodos: en casa de los Sres. D. Rosendo Fernandez y compañía. 7

INSTRUCCION DE SRES. REGENTES mandada observar por Real Cédula, dada en Aranjuez á 20 de Junio de 1776. Hállase de venta en la librería de Palmer por el precio de 4 rs. el ejemplar, 6

EN EL DESPACHO DE ESTA IMPRENTA se halla de venta papel superior pautado de las cuatro primeras reglas, grande y chico, se dará á precio moderado llevando surtido de resmas. 4

SE VENDE la fonda titulada la Campana frente á la puerta de Tierra, con todos sus enseres y un relox de música, por tener su dueño que ausentarse: calle de O-Reilly esquina á la de Cuba en la bodega inmediata á la tabaqueria. 3

¡UNA ROMANTICA!!!

Juguete cómico en prosa y verso, original de D. Juan Coro, representade por primera vez en el teatro de Tacon, el 9 de Agosto último: se vende á 4 rs. en la imprenta de D, Ramon Oliva, calle de Mercaderes bajo la casa de Gobierno. 2

SE VENDE UN PIANO de tocador de medio uso y de cinco octavas y media, muy bonito, en diez onzas de oro: en la calle de la Habana nº 166, cuadra entre la de Santa Teresa y la de la Muralla. 4

LA ACREDITADA fábrica de guitarras del difunto D. Francisco Pages, dirigida hoy por su hijo D. José, se ha trasladado de la antigua casa calle de S. Ignacio n. 70, á la de Aguiar á espaldas de S. Agustin entre las calles de Teniente de Rey y Amargura.—En este nuevo establecimiento, encontrará el público guitarras de todos precios, cuerdas y enterchados de la mejor calidad; y el mismo D. José Pagés ofrece hacer las composiciones, procurando desempeñar todas las partes de su arte con el mismo esmero que lo ha hecho hasta aquí, José Pagés. 8

ULTIMO AVISO.—Sigue hasta el último del corriente mes la realizacion del almacen de loza y cristales titulado el Laberinto, situado en la calle del Teniente-rey esquina á la de [illegible], en cuyo dia se ha de hacer la entrega de las existencias que quedaren, lo que se avisa al público á fin que las personas que deseen aprovecharse de esta oportunidad, puedan comprar dichos efectos á un precio moderadísimo, advirtiendo que aun quedan algunas hermosísimas bagillas de porcelana dorada las que se espenderán al moderado precio de 9 y 12 onzas, como tambien un escelente surtido de colecciones de cuadros dorados, los que se arreglarán al ínfimo precio de 2 un cuarto onzas, al mismo tiempo un surtido dorado de espejos para sala teniendo de alto 48 y 50 pulgadas, los que dores de todos tamaños. sillas de madera y regilla, sillones para mecerse de regilla y madera, vidrios de todas clases para lámparas y vidrios planos de todos tamaños, bajillas de filete dorado, id. de loza inglesa de varios colores, bandejas de charol, candeleros de cristal y platina, anafes de id, tinteros de loza y salvaderas y un completo surtido de loza fina pintada y con orilla diversa. 1

LIBROS.—Flores Estrada economía política 2 ts. 4º cuarta edicion. Sala, derecho Real de España 2 ts. 4º Farmacopea matritense 1 t 4º Novísima recopilacion 6 ts. folio. Cañada recursos de fuerza y juicio civil 3 ts. folio. Las siete partidas de la Real academia 3 ts. 4º mr. Id. id. glosadas por Gregorio Lopez 4 ts. fólio. Curia Filípica 2 ts. folio. Patologia de Rochey Sanzon 5 ts. 4º. De la garantía y vicios redibitorios en el comercio de animales domésticos 1 t. 4º Tratado de veterinaria por Casas 4 ts. 8º Poesías de Arriaza edicion de Madrid 2 ts. 2º Gomez negro práctica forense 1 t. 4º Obras literarias de Martinez de la Rosa 5 ts. 8º Poesías y las dos comedias del mismo 1 t. 8º Nosografia orgánica de Boineau 8 ts. 8º. Requejo vocabulario español latino 1 t. 4º Curso completo de gramática parda 1 t. 8º Dios es el amor mas puro 1 t. 8º Vallejo compendio de matemáticas 2 ts. 8º mayor ultima edicion. Autores latinos 3 ts. 8º Selectas sagradas 1 t. 8º Id. profanas. Obras de Quevedo, Tratado de la legislacion por Compte. Pandectas de Heineccio 2 ts. 4º Martin Martinez de cirujía 1 t. 8º Biblioteca romántico moderna. Los huérfanos de la aldea 3 ts. 8º Las revueltas intestinas por Arlincour, Lacaba de anatomia 5 ts. 4º El italiano ó el confesionario de los penitentes negros 5 ts. 16º Noches de Torcuato Taso 1 t. 8º El Pelayo 2 ts. 16 Las madres rivales 4 ts. 16º Arte de peinarse las señoras asimismas 1 t. 8º láms. Arte de hacer toda clase de fuegos artificiales 1 t. 8º láms. Manual del legista. Id. del criminalista. Id. de práctica forense. Id. id. de curiosidades artísticas 2 ts. 8º Id. de señoritas 1 t. 8º Id. del carpinterot 2 ts. 8º láms. Id. del naturalista 1 t. 8º Id. del florista 1 t. 8º Estas y otras obras, un surtido de comedias modernas se hallan de venta en la librería de Graupera, calle de Sta. Teresa esquina á la de Aguiar. 1

Hallazgo.

AL QUE SE LE HUBIERE estraviado una cadenita al parecer de oro que fue encontrada en la casa de baile conocida por la de Soto la noche del dia 30: el que diere las señas ciertas de su propiedad la entregarán el capitan juez pedáneo del barrio de Jesus María. 2

Arrendamientos.

SE SOLICITA arrendar una estancia que su mayor distancia sea de 2 á 3 leguas de esta ciudad, que tenga casa de vivienda y aguada fértil: en la calle de la Muralla tienda del Sol, recibirán los apuntes de la casa y calle para ocurrir el interesado. 4

Alquileres.

SE ALQUILA ó se vende una escelente nodriza de cinco meses de parida, muy robusta y humilde; es buena lavandera y regular planchadora, por su ajuste: calle de la Habana nº 166. 1

SE SOLICITA alquilar un negro servicial y que entienda algo de calesero: en la calle Real de Jesus María casa frente á la escuela ó en esta imprenta impondrán. 2

SE SOLICITA una negrita de 15 á 16 años para cuidar un niño: calle Real de la Salud tienda de la Aurora. 2

SE ALQUILA una morena lavandera, regular cocinera, ágil para cuanto quieran aplicarla: calle de la Picota n. 37. 2

SE ALQUILA una negra nodriza á toda leche, de muy buenas costumbres, muy humilde y sana: calle Real de Omoa n. 39. 2

SE ALQUILA un buen calesero de las mejores cualidades y buena presencia calle del Aguacate n. 116. 2

SE ALQUILA un negro jóven y de buenas circunstancias, buen cocinero y calesero, tambien se alquila ó se vende una negra lavandera y planchadora, con principios de cocina, sana y sin tachas, en precio equitativo por hallarse embarazada: calle de Bernaza n. 108 en la primera tabaqueria entrando por la plaza del Cristo acera derecha ó en la sombrerería que hace esquina á la plaza de Cristina, es el único en que se han de fabricar las hormas de hoja de lata para purgar azúcar, como habilitado por el curador del menor agraciado con el privilegio para hacer dichas hormas, conforme se ha anunciado en los diarios de esta ciudad en el mes próximo pasado: en tal concepto, se ofrece ejecutarlas bajo los mismos precios hasta hoy acostumbrados y condiciones que se convengan con las personas que les soliciten, pues el objeto principal es queden complacidos los Sres. que necesiten las indicadas hormas. 2

docena, se les darán á 6 rs., por ciento á 4 ps. y por millares á 38 ps., advirtiendo que son de un tamaño estraordinario. 2

D. ESTEBAN GRANADILLO, avisa nuevamente á los Sres. hacendados, que en su establecimiento de hojalatería situado en la calle del Teniente-rey contiguo á la sombrerería que hace esquina á la plaza de Cristina, es el único en que se han de fabricar las hormas de hoja de lata para purgar azúcar, como habilitado por el curador del menor agraciado con el privilegio para hacer dichas hormas, conforme se ha anunciado en los diarios de esta ciudad en el mes próximo pasado: en tal concepto, se ofrece ejecutarlas bajo los mismos precios hasta hoy acostumbrados y condiciones que se convengan con las personas que les soliciten, pues el objeto principal es queden complacidos los Sres. que necesiten las indicadas hormas. 2

LA SIRENA.—Con este título se acaba de abrir una nueva tienda de ropas, esquina á la calle de la Habana y del Obispo, en la que se encontrará un escogido y elegante surtido de modas, y otros géneros, al delicado gusto habanero, á precios equitativos. 4

IDIOMA FRANCES. Animado un jóven español con los ventajosos resultados obtenidos por el método sencillo y fácil que en otras partes siguió en la enseñanza de dicho idioma, tiene el honor de ofrecerse á los Sres. que gustando de tomar en su casa algunas lecciones del mismo, tengan la bondad de dejar sus notas de domicilio, en la librería de Graupera, calle de Sta. Teresa esquina á la de Aguiar tomará á su cargo la clase que tubieren á bien confiarle. 4

UN JOVEN español de una mediana disposicion acompañado de una pluma muy regular, desea colocarse bien sea en casa particular de mayordomo ó en algun escritorio de casa de comercio: para el efecto tiene personas que lo abonen: en esta imprenta impondrán. 4

EN LA CALLE DE LA INDUSTRIA entre la panadería del Diorama, y baratillo que titulan el Pilluelo de Paris, se ha abierto una barbería, donde con todo esmero y arreglado á la moda, se corta el pelo á 2 rs. y se afeita por un rl.—ofreciéndose tambien el dueño de ella afeitar en casas particulares por el moderado precio de 2 ps. al mes. 2

UN SUGETO mayor de 40 años, instruido en letra española é inglesa, con los últimos mejores métodos, dará lecciones particulares á jóvenes de ámbos sexos. Tambien de gramática castellana, aritmética, teneduría de libros y geografia ect.: en la librería de esta imprenta impondrán.

SE SUPLICA á D. Manuel Cuchas que vino de pasage en el bergantin español Conde de Luchana, procedente de Cádiz, tenga la bondad de avistarse con los Sres. Rosendo, Fernandez y compañía, quienes tienen, que comunicarle. 5

UN TENEDOR DE LIBROS con 11 años de práctica en esta plaza, y los mejores y mas recomendables informes, teniendo la mayor parte del dia desocupada, desea llevar la que tengan varios de aquellos señores que lo necesiten, desempeñando al mismo tiempo cuantas diligencias se les ofresca por un precio módico; se hará cargo de cuantas liquidaciones se presenten, tanto de testamentarias como de asuntos mercantiles, agencias y demas: calle del Obispo n. 120. 5

CURSO COMPLETO teórico práctico de diseño y pintura, en sus tres principales ramos de oleo, temple y fresco.—Esta obra, eminente en su clase. consta de 2 tomos en 12º estranjero lujosamente empastados, con 40 láminas finas. La primera de las tres secciones que la componen, comprende el dibujo práctico, modelo animado é inanimado, simetrias y proporsiones del cuerpo humano, anatomia, reglas para el movimiento y plantas de las figuras, retrato, paisage, arquitectura y perspectiva. Abraza la segunda el dibujo ideal, la espresion, claro oscuro, invencion, composicion y todas sus bellezas, siendo objeto de la tercera los tratados del colorido, oleo, temple y fresco y el diccionario tegnológico con que concluye, se halla de venta á 20 rs. el egemplar, en la librería de Mas, calle de la Muralla y loceria de D. Pedro Guilló, n. 88 en la de Mercaedres.—Los individuos que suscribieron el año ante próximo para garantir su edicion, podrán tomar los egemplares que gusten por los mismos 20 rs. en vez de los 4 ps. que quedaron en abonar. por hacerse hecho la impresion con ménos costo del

Precios corrientes

EN ESTA PLAZA,

de los principales frutos de importacion y esportacion, sacados estos últimos á la una del dia de ayer, del registro de la Junta de Gobierno del Real colegio de Corredores.

Importacion.	Peso ó medida.	Precios. DE		Y	Precios. A		Y
		Ps.	Rs.	Rs.	Ps.	Rs.	Rs.
Arroz del N. Amér[a]	arb[a]	...	14	...	...	...	...
Bacalao	ql.	3	...	...	...	...	...
Id. en caja de 50 lbs.	una.	2	...	...	...	...	...
Har[a] de Santander.	brl.	15	4	...	...	...	...
Id de New-Orleans	id.	17½	...	...	18	...	...
Id. del N. América.	id.	18	4	...	...	...	...
Mant[a] de Europa	ql.	20	...	...	...	...	...
Id. del N. América.	id.	12½	...	...	13	...	...
Id. de N-Orleans	id.	11½	...	...	12½	...	...
Puerco en sal[a] mess	brl.	18	...	...	...	...	...
Id. de N-Orleans, id	id.	18	...	...	...	...	...
Id. clear	id.	22	...	...	34	...	...
Id. en cajas	ql.	15½	...	...	16	...	...
Tablas de pino blanco de Portland, mil	pies.	24	...	...	25	...	...
Idem de los puertos del Este	id.	22	...	...	23	...	...
Id. de pino de tea	id.	24	...	...	30	...	...
Tasajo de Motevid[o] y del Brasil	arb[s]	10	...	...	10½	...	...
Id. de New-York y Boston	id.	14	...	...	16	...	...
Vaca en sal[a] nº 1, 2, prime y mess	brl.	8	...	...	12	...	...
Velas de sebo	ql.	17	...	...	18	...	...
Id. de esperma	id.	38	...	...	39	...	...
Vino catalan	pipa	28	...	...	...	...	...
Id. frances	bar[s]	24	...	...	...	...	...
Id. id. en cajas	una.	22	...	...	...	...	...
Esportacion.							
Azúcar.							
Mitad y mitad	arb[s]	...	7½	11½	...	8	12
Idem florete	id.	...	8½	12½	...	9	13
Blanco solo	id.	...	11½	...	...	12	...
Idem florete	id.	...	12½	...	...	13	...
Quebrado solo	id.	...	7	...	...	8	...
Idem florete	id.	...	8½	...	...	9	...
Cucurucho	id.	...	5½	...	...	6	...
-Moscovado	id.	...	...	...	...	...	...
Café de 1ª	ql.	...	...	...	...	...	...
Idem de 2ª	id.	9	...	...	10	...	...
Idem de 3ª	id.	7	...	...	8	...	...
Triache	id.	4½	...	...	6½	...	...
Cera blanca	arb[a]	8	...	...	8½	...	...
Id. amarilla	id.	5½	...	...	6½	...	...
Miel de purga	brl.	...	2½	...	...	...	...
Id. de abejas	gal.	...	2½	...	...	...	...
Aguardiente de c[a]	pipa	...	22	...	...	...	...
Cigarros puros	mil.	...	...	...	...	...	...
Añil, surtido	lib[a]	...	8½	...	...	9	...
Idem, flor	id.	...	10	...	...	11	...
Idem bajo	id.	...	7	...	...	7½	...
Grana	arb[a]	35	...	...	36	...	...
Jalapa	id.	24	...	...	25	...	...
Palo de Campeche	ql.	...	9	...	...	10	...
Zarza de Honduras	id.	20	...	...	22	...	...
Idem de Veracruz	id.	...	...	...	13½	...	...

Observaciones.

Azúcar, mitad y mitad... } Poca demanda.
—Florete idem... } Poca demanda.
Blanco solo... } Poca demanda.
—Florete idem... } Poca demanda.
Quebrado solo... —Alguna demanda.
—Florete idem... } Poca demanda.
—Cucurucho... } Poca demanda.
—Moscovado... —
Café, de primera... —No hay.
——De segunda... } Poca demanda.
——De tercera... } Poca demanda.
——Triache... } Sin demanda.

Cambios.

Sobre Lóndres	14 á 14¼	p § premio.	
——Paris	á 1	descuento.	
——España	7¼ á 9¾	premio.	
——New-York	á á 1	premio.	
——New-Orleans	2¼ á 3¼	p § descuento.	
——Estados-Unidos	par á ¼	idem.	
Plata columnaria	á 3	prem.	
Plata mejicana	par.		
Onzas mejicanas	á ¼	premio.	

Fletes.

Bálico en derechura	4 £	15	ch.
Hamburgo	4 £	10	„

Para New-YORK.

Saldrá á la mayor brevedad por tener mas de la mitad de su cargamento comprometido el hermoso bergantin paquete TOPAR, su capitan Clifford; es buque forrado y claveteado en cobre y muy conocido en la carrera de New-York y este puerto; admite el cómputo de 450 cajas de azúcar, si se presentan oportunamente, y ofrece muy buenas comodidades á pasageros en su espaciosa cámara: impondrán el capitan á bordo ó sus consignatarios los Sres. Forcade y cp[a]

Para Génova.

La polacra española VIRGEN DE GRACIA, su capitan D. Gabriel Cardona; admite solo pasageros, para los cuales tiene una hermosa cámara, debiendo salir á la mayor brevedad: la despachan sus consignatarios los Sres. Tosar, Ullmann y compañía.

Para Hamburgo.

Saldrá á principios de Setiembre el bergantin hamburgues CARL HEINRICH, su capitan Valentin; es buque de escelentes cualidades, forrado y claveteado en cobre, tiene la mitad de su cargamento comprometido y admitirá el resto á flete: imponiran sus consignatarios los Sres. De Coninck y Spalding.

Para Trinidad, con escala en Cienfuegos.

Saldrá del surgidero del Batabanó á la mayor brevedad la muy velera goleta española MERCEDITA, su patron D. Tomas Acosta: admite carga y pasageros: impondrán en la calle del Tejadillo nº 9.

Para New-Orleans.

Admite algun flete la escelente gol[a] americana HYDER ALLY, y saldrá inmediatamente: informarán sus consignatarios los señores Castillo, sobrinos.

Para Gibara.

Saldrá á la mayor brevedad la acreditada goleta española RAMONCITA, su patron D. Máximo García, admite carga y pasageros, á quienes ofrece el mejor trato: impondrán su patron á bordo ó en frente la puerta nueva de Carpinteros Sres. Reventos y compañía

Para New-Orleans.

Saldrá á la mayor brevedad el bergantin americano IVANHOE, paquete de New-Orleans, su capitan Amy; admite carga á flete y pasageros, para los que tiene una hermosa y espaciosa cámara: impondrán sus consignatarios los Sres. Forstall, hermanos y cp[a]

AVISOS.

Los Sres. Biada y compañía han trasladado su escritorio y la fábrica de tabacos titulada INTEGRIDAD, de la calle de la Amargura nº 4 á la de los Oficios nº 79, que ocuparon los Sres. De Coninck y Spalding.

Los VAPORES del tráfico de Regla desde el 1º del corriente en adelante, navegarán hasta las 9 de la noche los dias de trabajo, y los domingos hasta las 10, si el tiempo no lo impide.

Vapor General Tacon.



Su capitan D. Antonio Horta, saldrá de este puerto para el de Matanzas los domingos y juéves, regresando los mártes y sábados; admite carga y pasageros: impondrán en el muelle de San Francisco, donde se despachan los vapores de Regla.—Los propietarios de dicho vapor no serán responsables de las averías que sufran los efectos ó encargos que en él se depositen

Vapor Cárdenas.



Saldrá de la Habana para Matanzas los viérnes.—De Matanzas para Cárdenas los domingos.—De Cárdenas para Matanzas los mártes.—De Ma-

Sobre Madrid, Cádiz, Coruña, Barcelona, Málaga, Santander, Puerto-Príncipe y Trinidad, las giran en la calle de Sta. Teresa n. 11, los Sres. Pola, Mendive y compañía.

Sobre Madrid, Cádiz, Santander, Barcelona y la Coruña, á cortos dias y en todas cantidades, las giran en la calle de Sta. Teresa nº 12, la Sra. viuda de Embil.

Sobre Madrid, Barcelona, Cádiz la Coruña, Santander y Llanes, las giran en todas cantidades y á corto término en la calle de Mercaderes n. 7, entre las del Obispo y Obrapia cuadra contigua á Palacio, los Sres. Olmo y Lama

Sobre Puerto-Príncipe, las giran los Sres. D. Jorge Knight y cp[a]

Sobre Barcelona las giran á 8 dias vistas en la calle de Mercaderes número 90, D. Jaime Pont y compañía.

Gran Teatro de Tacon.

GRANDIOSA Y SOBRESALIENTE FUNCION NUEVA,

que se verificará la noche del mártes 4 de Setiembre próximo con el drama en cinco actos.

LA CORTE DEL BUEN RETIRO.

Obra recientemente compuesta por don Patricio de la Escosura, *vice-presidente de la Seccion de Literatura del Liceo Artístico-español.*

Esta hermosa produccion, en la que su autor dice *haber intentado amalgamar el romantismo de Calderon con de Dumas y Victor Hugo*, debe ser la de mas novedad y efecto escénico de cuantas en este género se han representado: su intriga y desenlace, animados por las imágenes del fuego poético del señor Escosura, los caractères de los personages bien definidos del natural, distinguiéndose el del Bufon del Rey por su originalidad, interes y difícil desempeño, y el costoso adorno teatral que se ha hecho para decorarla pintando a intento el proscenio dos decoraciones: la primera figurando el *antiguo alcázar de Madrid*, y la segunda *un suntuoso salon real gótico*, con otros varios pormenores, bastarian á recomendarla cuando no fuera suficiente su reconocido mérito, y el crédito que justamente ha adquirido en la multitud de representaciones que de ella se han hecho en el principal teatro de Madrid y demas capitales de España.

El director don Antonio Hermosilla la ha ensayado con la mayor prodigidad, y egecutado su reparto en la forma siguiente:

El rey don Felipe IV, Don Francisco J. Armenta.—*El Bufon*, Don Francisco Garay—*El Conde de Villamedina* Don Antonio Hermosilla.—*El Conde de Orgaz*, Don Juan Monari.—*Don Luis de Haro*, Don Antonio Mendez—*Don Diego Velazquez*, Don Juan de Mata—*El Conde-Duque de Olivares*, Don Rafael García.—*Don Pedro Calderon de la Barca*, Don Ramon Barrera.—*Don Francisco Quevedo* Don Francisco Covarrubias.—*Don Luis de Góngora*, Don Ignacio Echezábal—*Un mensagero de la Reina*, Don Manuel Blanco.—*Un alcalde de corte*, Don Juan B. Reyna.—*La Reina*, Doña Rosa Peluffo.—*La dueña doña Guimar*, Doña Carlota Lopez.—*La Camarera mayor*, Doña Matilde Lopez.—*Una damade la Reina*, Doña Antonia Hernandez. *Damas, caballeros, ugieres, pages, criados de palacio, guardias, bollesteros, alguaciles hombres y mugeres del pueblo.* Resto de compañía y comparsa.

Concluido el drama bailarán las señoras Perez y Auriol, y los señores Lopez y Grande unas preciosa

BOLERAS JALEADAS.

Con la acertada eleccion de esta pieza y el decidido empeño que ofrecen en su representacion, pretende manifestar al respetable público habanero el deseo que tienen de complacerle

Los Artistas dramáticos españoles.

La funcion principiará á las 7 en punto.

NOTA.—Aunque en las papeletas del convite dice que se empesará á las 8 entiendase que dara principio precisamente á las 7 y media en punto.

PLAZA DE TOROS.

personas que deseen aprovecharse de esta oportunidad, puedan comprar dichos efectos á un precio moderadísimo, advirtiendo que aun quedan algunas hermosísimas bagillas de porcelana dorada las que se espenderán al moderado precio de 9 y 12 onzas, como tambien un escelente surtido de colecciones de cuadros dorados, los que se arreglarán al ínfimo precio de 2 un cuarto onzas, al mismo tiempo un surtido dorado de espejos para sala teniendo de alto 48 y 50 pulgadas, los que se espenderán los primeros al equitativo precio de 4½ onzas y los segundos á 4. 11

REGLAS de política y moral para el uso de las escuelas de primeras letras, se vende á real cada ejemplar y por docenas á 6 rs.: en la librería de esta imprenta. 24

JARABE DE NAFE: se participa á las personas que dias hace lo solicitan en la botica de Pou, Roquer y compañía que acaban de recibirse por el bergantin Pascual de Burdeos. 6

RECREO MUSICAL. Se halla listo el egemplar n. 10 conteniendo las pzas siguientes. Obertura del nuevo Figaro. Cavatina de Soprano en la opera el Belisario y Duetto en la opera Torcuato Tasso.—Se acaban de publicar las Danzas Bella Habanera, Cubana, Teresita y Fenix: igualmente los valses la Amistad, compuesta por el jóven aficionado D. Pablo Devernine Las mollares de Sevilla, Jota aragonesa y Cachucha. 1

ULTIMA Y VERDADERA

QUEMAZON.

Precios equitativos y de la mayor conveniencia.

Con este título, hoy lúnes, se han repartido por papel separado á este Diario, los ejemplares en donde se manifiesta el general, abundante y escojido surtido de géneros, y los ínfimos precios á que se han de espender en la esquina á las calles de Cuba y Sta. Teresa tienda titulada la Reserva. 1

SE VENDE con bastante equidad un piano ingles de mesa de 2 octavas, calle de Luz n. 23. 1

CAMISAS de Holanda superior de 3 dobladillones hechas en Amburgo; á 18 rs. cada una: calle de S. Miguel n. 109 frente á la calzada de Galeano. 3

PLATERIA del Puño de Oro de Binard y Giquel.—En la calle de la Muralla n. 91 frente al Palo-gordo, se acaba de recibir un gran surtido de prendería de las clases siguientes: aretes de todas clases, alfileres de mosaico, de esquisito trabajo, cruces románicas, sortijas, cadenas de señoras y caballeros, cañas legítimas de la India sumamente delgadas, id. de carey, id. de unicornio, una caja de cubiertos superiores ingleses, un jarro y palangana id., franceses, un gran surtido de cubiertos franceses y de todas clases, cuatro escribanías de lo mas superior que se conoce, todo á precio moderados, Igualmente se trabaja toda obra perteneciente á platería, diamantista, grabados filigrana y oro de todos colores cincelado, con la mayor perfeccion. 1

EN LA CEIBA calle del Aguila, se ha abierto un nuevo almacen de loza y cristales nombrado el ROMANTICO y ofrecen sus dueños vender á los mismos precios que los almacenes de primer órden de intramuros, pues reciben los efectos directamente de las fábricas mas acreditadas de Europa, y para mayor conocimiento y satisfaccion del público anunciamos una parte de los artículos que encierra actualmente: lámparas de colgar, hechuras nuevas con pendientes de cristal y sin ellos, quinquets dorados bronceados, lámparas doradas de una, dos, tres y cuatro luces, inglesas, escupideras de metal con pie y azas y blancas imitando platina, dichas de charol, colecciones de cuadros dorados y caoba, mesas para sala con esquineros, espejos y tocadores, lavamanos, cómodas, escritorios, sillones, sillas, mesas de noche, de comedor, de juego, de trabajo, de tocador, de centro, de fumar, de cuarto, de billar, de ajedrez, de dominó, de damas, de ruleta, de rocambor, de tresillo, de malilla, de boston, de whist, de ecarté

Havana Consulate No. 84.

Documents.

Cate of the Ship William Engs.

Copy.

{ Enclosure No. 4.
Document No. 5.

Consulate of the United States of America
Havana, July 13th 1838.

On the subject of the Ship William Engs, (on board of which occurred on Monday last, the 9th inst., the mutiny which has become the subject of an investiga=tion by the Authorities of the place,) I beg leave to repres=ent to Your Excellency that said Ship is expected to be ready for sea tomorrow, with a valuable cargo of sugar destined to Russia, by the way of Boston; and that owing to the lateness of the season, her departure on that northern voyage cannot be delayed a single day without seriously endangering the interests of those concerned. If, therefore, any necessity exist for Captain Vaughan's remaining here, on account of the proceedings against the mutineers, it will become indispensable to appoint another Captain in his place if one can be procured, or abandon the voyage.

I beg leave, therefore, to trouble Y. E. with the request, that I be informed at the earliest possible moment whether any such necessity exists, for Captain Vaughan's presence here: not doubting

that

that if it can possibly be dispensed with H. E will perceive the importance that it should be, and feel every disposition to exempt him from a detention which would necessarily prove extremely inconvenient to himself personally, and might involve consequences the most serious to all interested in the Ship and cargo. —

I have the honor to be, with the highest consideration Your Excellency's

Obed.t Servt.

[illegible] N. P. Trist

His Excellency Don Joaquin de Espeleta

&c &c

Captain General

&c &c &c

Havana Consulate No. 84

{Enclosure No. 4
{Document No. 6.

(Translation)

Captain Generaley
of the
Ever Faithful
Island of Cuba.

The honorary Councellor, the Auditor of War, had counselled what, together with my decree thereon is as follows:

"Most Excellent Sir, — It will not be necessary that Captain Vaughan remain here on account of the prosecution against the mutinier sailors, nor consequently that another captain be appointed to the ship William Engs, or that the voyage be abandoned. In such cases as the present, involving the necessity of absence, our Law of Practice authorized to take by anticipation the steps requisite in the course of proceeding; and in this respect, it is proper that this oficio (letter from the Consul) be pated to the Fiscal charged with the Sumario (proceedings of investigation) with instructions to proceed immediately

and

and without interruption in all steps requisite for complet-
ting and closing the testimony of Captain Vaughan, (a) so
that he may be free to set out on his voyage. — And this
may be communicated to the Consul of the United States.
Saving &c. Havana, July 14. 1838. Most Excellent Sir,
Felipe Martinez. (the Auditor of War.)

"Let it be done as is proposed in the foregoing
opinion, to which I conform; the oficio of the Consul to be
passed to the Fiscal-Judge for the purpose therein expressed.
Ezpeleta. (the Captain General.)"

Which I transcribe to Your Lordship, in reply
to your oficio of yesterday.

God preserve Y.L. many years. Havana,
July 14. 1838.

Joaquin de Ezpeleta.

To the Consul General of the United States.

(a) Note of the translator. In the original, these steps are specified. A free translation of this part of the sentence is given, instead of a literal one; because of the technicalities involved in it, which would render a literal version unintelligible without long explanations.

L.P.

CAPITANIA GENERAL de la SIEMPRE FIEL ISLA DE CUBA

Rec.d 11 July 38 at 8 o'clock P.M.

Havana Consulate N.o 84. Enclosure N.o 4.

(Documents.)

Case of the Ship Williams Engs. Document N.o 6

El Sor Comy Hon.o Auditor de Guerra me ha
Comunicado lo que con mi decreto es como sigue

Exmo Sor — No será necesario que el Capitan
Vaughan permanesca aqui con motivo de la causa
Contra los marineros amotinados, ni de consiguiente
el que se nombre otro Cap.n para la Fragata Williams
Eng.s ni que se abandone el viaje — En casos como el
presente y de necesaria ausencia autoriza la practi-
ca de nuestra legislacion el anticiparse las diligencias
precisas en el curso del proceso y por tanto es de pa-
sarse este oficio al fiscal del sumario para que con
toda preferencia se practique ademas de la declara-
cion y reconocim.to de la persona del Capitan Vaughan
que es natural este evacuado su ratificacion dejando-
lo en seguida espedito para emprender viaje, lo q.
podrá comunicarse al Sor Consul de los Estados
Unidos: salvo V. Habana y Julio 11 de 1838 = Exmo
Sor = Felipe Martinez = Habana 11 de Julio de
1838. Hagase como se propone en el ant.r dictamen
con que me conformo, remitiendose el oficio del Sor
Consul al Fiscal con el objeto q. en el se es-
presa = Espeleta

Lo que transcribo á V. S. en con

Sentacion á su oficio de ayer

Dios guarde á V.S. muchos años: Ha

Alma 16 de Julio de 1838.

Jorge Mc Lepoldo

Sor Consul Gral de los Estados Unidos

Havana Consulate No. 84.

Case of the Ship William Engs.

Enclosure No. 4.

Document No. 7.

Consulate of the United States of America
Havana, July 18th 1838.

I have the honor to acknowledge the receipt of the two ofices from Your Excellency, under date the 14th inst, both relating to the case of the crew of the Ship William Engs, and to certain questions arising out of it.

I beg leave, at the same time, to express the very grateful sense which I entertain of the dispositions towards the American flag, of which this occasion has afforded so strong a manifestation. To the great activity on the part of Your Excellency, so well seconded by that of the Auditor of War, in despatching the question concerning the necessity of Captain Vaughan's detention here as a witness in the cause he is indebted for his exemption from the train of serious consequences, whereof the loss of the employment held by him as master of the William Engs would have been but the beginning, as all interested in the Ship and cargo are, for the security they now enjoy against the mischiefs

that

that might have arisen from the necessity of placing her under the command of another person, and her detention here until this could be effected. —

With my profound acknowledge=ments, I beg Your Excellency to accept the renewed assurance of the high consideration with which I have the honor to be

Your Excellency's Obed.t Serv.t

(Signed) N. P. Trist.

His Excellency Don Joaquin de Espeleta

&c &c

Captain General

&c &c &c

Havana August 16th 1838

J. A. Smith Esqr

Sir

Lately I have received many communications from the prisoners at the punto among them I have discovered a Miner named Clark who belongs to a very respectable family in Brewster (Mass) has a Brother master of a vessel of respectability. In my inquiry into the case I am satisfied that he is a young man of character of no small merit & my object is to ascertain how he came in the prison & to ascertain if he can be liberated as he has an offer of a master situation on board of a vessel at this Harbour.

Your obedient
Ferdinand Clark

Note by N.P.T.— On the same day, a letter was addressed to the British Consul, a copy of which is below.

The object of Ferdinand Clark in writing these communications, no American at Havana would be at any loss to ex-

plain. It was but one out of hundreds of moves in a game at which he had been busy for years, to wit: telling all strangers that Americans could get no protection from their own Consul, and had to depend upon the British Consul. In this instance, if the latter had interfered, Clark's object would have been attained. He would have been able to say, "See there now! American sailors, persecuted by their own Consul, have obtained redress at the hands of the British." And this, a sailor's friend would be the very man who, notoriously, was the most prompt to continue machinations and get up clamour against the American Consul for the countenance & protection afforded by him to sailors in controversies with masters!

For a striking instance of the game just referred to, see the testimony of Lieut. Contee, U. S. N., and the British Consul, [Despatch N. 84. — Encl: 1. — Sub-Encl: 10. 11. 12. 13. 14] in regard to Col: O. H. Throop President at the 4th of July celebration of 1838, [Despatch N. 84. Encl: 2.] and one of the most respectable & distinguished of Clark's associates and confederates. — The letter to the British Consul (which received no notice: a piece of audacity which Clark, at a subsequent period when he deemed the American Consul's dismissal from office as secured beyond doubt, announced his determination to bring to condign punishment, by having a similar example made of the British Consul — counting doubtless upon the "influence at Court" of his friend & confederate Dr. R. R. Madden —) is as follows:

Havana August 16. 1838.

C. D. Tolmé Esqr.

Dear Sir, Lately I have received several communica-

tions

Havana Consulate No. 84.

Case of the Ship Williams Engs

(Documents)

Enclosure No. 4.

Document No. 8.

tions from Prisoners at the punto; & yesterday 5 men, John Broad=foot, John Taylor, Jas. Burnett, Nicolas Nelson, John Mc Kenley British subjects, and Isaac Clark, an american, sent me the enclosed Statement, and, observing a British vessel of war here, hope these men may be liberated. I hear a very favourable character of them, the last named has the offer of 2nd mate of a vessel now in port, and the other 4 are wanted for the same vessel.

I am, Yours most truly

Ferdinand Clark.

P.S. The above named Seamen were attached to the Ship Williams Engs.

[In Ferdinand Clark's letter.]

I was in Liverpool on the 26th of April when I agreed with Mr Reynolds Shipping master to go to Havanna & New Orleans In the ship Wm Engs of Newport R.I I recieved a note of £2:10 0 0 in advance & sailed in the said ship on the 1st of may and recieved nothing but abuse and ill treatment until we arrived at Havanna on the 10th of June we had been in Havanna about 3 Days when the mate told us the ship was going to Russia We then asked the Capt for our discharge as we had not signed articles he then told us if we had not signed articles he would be [redacted] if he would not make us pay our passage on the sunday following part of the crew asked liberty on shore that they might see the American Consul about it but they was refused he then told the mates not to allow any boats alongside for fear the crew might get on shore. on the sunday following we asked liberty on shore but was still refused. We then kept to our duty recieveing abuse from the mates at which we asked them the reason of it they said it was the Capt orders for them to do so. on sunday the 6th of July we again asked liberty on shore but was refused he then give the cook liberty on shore which was a black man one of the crew went aft for some bread for supper but was refused it we had no supper that night and the next morning we was called to go to work at 5 o clock as usual at which 5 of us refused until we had liberty on shore to see the Consul. the mate then went aft and told the Capt the words the Capt told him to wait until a schooner came alongside

12-1

to take Ballast from the ship he waited until
the schooner came alongside and then called us
aft and told us to go to work we told him
not until we saw the Consul he then told the mate
to cut him a piece of the topsail brace he then
went down in the cabin and brought pistols & Cutlases
the Capt. & mate then laid hold of John Taylor &
dragged him aft beating him shamefully the Capt.
of the schooner then came on board to his assistance
they then tryed to seize him to the mizen rigging
still beating him the Capt. then told the mates to
hold him while I kill him he then was beating
him with pistols when he cried out murder & other
ships crews hailing us and saying what kind of men
are you to see that we then went aft to take the
Capt. off him the Capt. then struck John Broadfoot on
his head with a pistol he then Jumped and struck
Nicolas Nelson on the head with the same weapon
the Capt. of the schnr. in the mean time went on
shore for soilders we was then order to take of our
Jackets and go in boat and was brought to prison
on the next Friday afternoon we was taken out before
two Spanish gentleman & american interpeter he
asked us several questions about it and wrote it
down in spanish as they said and we singed it
the next Day in the afternoon we was taken

[In Ferdinand Clark's letter.]

out before the same gentleman & the Interpeter
the Capt & Mate & Capt of the schnr was there
the Interpeter read the Capt Declaration to us
he had made to the Consul at which we took
our oaths was false we was then commited to
to prison again where we now remain not
hearing Nothing about it Isaac Clark
of Brewster Mass

Nassau August the 16 1838

Note. The underscorings in this letter are made by N. P. T.

Havana Consulate No. 84. Enclosure No. 4.

~~Case of the Ship William Engl.~~ ~~Document~~ Document No. 9.

The copyist will put the above heading at the top of the sheet, before beginning the letter. — The underscoring to be made in black ink.

To the U States Consull
at Havanna

~~Crew of Ship Wm Engd.~~

Cavanahs
Cavanahs

28th Sept 1838

We take the liberty of writing to your Honour to let you know our distressed situation we are the six seamen who was left there belonging to the Ship Wm Engs of Newport we joined her in Liverpool to call at Havanah and to Newyork & there to be paid off we joined her on the 1st of May and arrived her on 10th of June. after we were in harbour 6 weeks we were informed by the Chief Mate that the Ship was going to St Petersburgh which was contrary to our agreement as we had signed no Articles we told the Captain that we wished to have our discharge as the Ship was not going to the port of our agreement he told us if we had not signed Articles he would make us pay our passage we said that we must see your about it he ordered the Mates to allow no Boats alongside so that we should not get on shore. on Sunday the 8th July we asked liberty on shore he would not allow us he allowed the Boat. who was A Welsh man to go which did not return untill 10 Oclock one of the crew went off at Eight Oclock and asked for some Bread for supper he would not give us any we set the Anchor watch and on Monday Morning we refused to do any more duty untill we saw you. the Captain came on deck and walked untill the Schooner Gentinella Packett came alongside he then called us aft as we thought it was to speak to us but when we went to him he ordered the Mate to cut him A piece of the Lofsail Brace and said he would flog us he went himself and cut the Brace and came and struck John Taylor on the head the Mate & second Mate Dragged him to strike him up to the Mizen rigging the rest of us were on the forecastle the Captain was beating him with a pistol the Capt of the Schooner came on board with two Pistols and Cutlass to their assistance the Mates were holding Taylor whilst the Captain themselfs was abusing him untill he called for us to save his life we went aft and asked if he was going to kill him he said he would serve us the same he then struck John Broadfoot on the head with the pistol and knocked him down he also struck Nelson and cut his head which he was taken to the prison the next day we all went on the forecastle whilst the Capt of the Schooner went for soldiers he told them to report Mutiny when they came the handcuffed Taylor and lowered him into the Boat and ordered the rest of us to be stripped of all our clothes but A

and Grouses which he said would help to pay our expences
they then put us in Stocks whilst we were there there was
A Gentleman came and called A list of Names but none of the
was our names, there was some of the crews names who left this in
Liverpool, we told them our names which they put down, they then
sent us to prison and on Friday Saturday an Interpreter and A Spaniard
Gentlemen came and asked us some questions which we answered
they came again on Saturday with the captain and Mate and
Captain of the Schooner and read their Declarations which was
false they said we had Handspikes which were all kept Below in
the forecastle and A Hatchett which there was not such A thing
on Board we were put back to Prison and on the 29th of August
the interpreter came and told us that we were sentanced 5 of us
to two Years each and John Taylor to 4 years as they said he was
head of the Mutiny, Sir it is A clear proof that there is no Justice
they sentanced John Mc Kinzey who had not done any work since we
came into port and very little on the passage they have punished
him who never was off the forecastle We hope your Honour will be
so Kind as to look into our case as we are suffering very much in
this place we are not able to stand working in the heat of the Sun
and the little Victuals that we are allowed if you can assist us in
getting us out of this place we will be for ever obliged to you we
have not had our Cloaths Shifted since we came to Prison and are
not allowed water to wash ourselves we are getting in A dreadful
state, Sir we wrote to you twise before but we do not Know
whether you received the letters or not. if you get this letter if you
will be so good as let us know if you can do any thing for us we
will be for ever obliged to you we wrote to the English Consul but
got no answer so that we do not Know whether our letters go or
not, Kind Sir if it cannot be settled here we wish you would send
us to the United States for A trial we would willingly suffer any punishment
we are deserving of A but we are very wrongfully suffering here

We remain your Most Humble petitioners

1. John Taylor
2. John Brownfoot
3. John Mc Kinzie
4. Jas Burnett
5. Isaac Clark
6. Nicholas Nelson

Note. The underscorings in this letter made by N. P. T.

Havana Consulate No. 84.

Case of the Ship William Engs.

Documents.

Enclosure No. 4.

Document No. 10

Consulate of the United States of America
Havana, April 27th 1839.

To C. D. Tolmé Esqre
Consul of H. B. Majesty.
Sir,

On several occasions last summer or fall, you mentioned to me various machinations of an individual by the name of Ferdinand Clark, in regard to the crew of the American Ship Wm Engs. Extrinsic circumstances having recently attached to these sufficient importance to render them deserving my notice, I take the liberty to request that you will put yourself to the trouble of giving me a succinct statement of the principal steps taken by him on this subject, which came to your immediate knowledge; and also the opinion which the particular circumstances attending them may have led you to form in regard to the object which he had in view.

Should it not be unpleasant to you, I would also ask the favor of you to say whether either the character of this individual, as known to you, or the repute in which he is generally held, admit the supposition that he could possibly take any interest in the case of any sailor, whether a

foreigner

foreigner or an "American citizen", unless impelled thereto either by that covetousness of money, in the indulgence of which he is so notoriously and pre-eminently unscrupulous, or by personal malignity towards some one against whom his philanthropy or patriotism might be made to bear.

I am, Sir, very respectfully

Your Obed't Serv't

(Signed) N. P. Trist.

Havana Consulate No. 84.

Case of the Ship William Engs.

Documents.

Enclosure No. 4.

Document No. 11.

The copyist will make the endorsement in black ink.

British Consulate

Havana 24 May 1839.

Sir,

In reply to your letter of the 27th. ultimo, which I must apologize for not sooner answering, I beg to say, that I have a perfect recollection of speaking to you last summer or fall, about some seamen, said to be British subjects, who were imprisoned in the public jail, on the charge of a mutiny on board the American Ship William Engs; my attention being called to the case, partly by letters which the men themselves wrote to me and partly by one or more communications on the subject from Mr. Ferdinand Clark, an American Merchant in this place.

Though I do not remember what steps were taken by the last mentioned person in the matter, further than his having written to to me; - I know, at least, that they were such as to leave on my mind the impression, that he intermeddled in the affair, not from motives of humanity, but merely with a view of annoying and if possible injuring you.

It may appear harsh to entertain such an opinion, but as I never heard of Mr. Clark's showing the

N. P. Trist Esqre

&c &c &c

the smallest regard on any previous occasion, for the welfare of seamen, but on the contrary of his always taking the part of Shipmasters against them, whenever you thought the the former wrong, thus in both acts evincing his opposition to you; and as I know he belongs to a clique of not very res= =pectable persons, who have been, to my disgust, trying to raise me at your expense, in the opinion of those of your countrymen the transiency of whose residence here, deprives them of the opportunity of judging correctly of the matter, – by representing that I could and would render them better services than yourself, (than which nothing is more false, for tho' I am happy to be of use to them, I am sure you are more able and fully as desirous to do the same), I cannot consider the idea I have formed regarding him erroneous.

As to the repute in which Mr Clark's character is held in this place, whether good or bad, I do not think it would be proper to speak on the present occasion; but I cannot conclude my letter without saying, that in my opinion, it ought to be quite indifferent to you, whether he is a respectable man or no, or whether he do or say anything to your prejudice, so long as you enjoy, which is certainly the case, the esteem of the first American Merchants here, of the authorities,

of

of the best part of the community and of your colleagues, - among whom no one more respects and admires you than

Your Obed.t "Serv.t"

C. D. Tolmé

Signed

Note. The underscorings in this letter, made by N. P. T.

Havana Consulate No. 84. (Documents.) Enclosure No. 4.

Case of the Ship William Engs. Document No. 12.

(Copy.)

Consulate of the United States of America

Havana, May 1st. 1839.

To Captain John R. Stanhope,

Owner of the Ship Wm Engs.

Sir,

Some time in December last, in the chamber at Madam Rouillet's boarding house occupied by Captain Mix of the Navy, since deceased, upon the occasion of your speaking to me on the subject of one of the seamen of the Wm Engs, some remarks passed, wherein Captain Mix took part. The object of this communication is, to ask the favor of you to say how far the following particulars accord with your recollection of what was then said. With regard to the precise words used, I do not pretend to absolute exactness, but the purport was as follows:

I remarked that if the facts preceding the mutiny accorded with the statement of the men (part of which, my experience in the office created a strong pre = = sumption in favor of the truth of), then the Captn ought now to be cracking stones in their stead.

You observed, that the Captain was to

blame

blame for the mutiny; because of his extreme leni-
-ency and forbearance towards the men on the voyage
to this port. Of this, you mentioned some particulars
connected with ship-board work, which he had allowed
them to omit; and you added, that if he had made the
men do their duty, and exacted proper service of
them, the mutiny would not have occurred. That in
consequence of this, you had given him to understand,
that he must not look to you for, but should himself
bear, any expense that might grow out of the
busineſs.

I replied, that however this might be, the
men, if their statement were true with regard to the
voyage for which they had shipped, did right to
mutiny.

Hereupon Captn. Mix, who had been a silent
listener, exclaimed "Oh! No: my dear Sir, mutiny can
never be right!" To which I answered, "When a
man's personal liberty is violated by unlawful
detention on board a ship in port, he does right to
refuse to work; and if personal violence is offered him
in consequence, he does right to defend himself
and repel it."

By giving as early an answer

to

to this enquiry as your convenience will allow, you will oblige

Your Obed^{t} Servt

Signed N. P. Trist.

Havana Consulate No. 84.

Case of the Ship William Engs.

(Documents.)

Enclosure No 4.

Document No. 13.

Cardenas May 16th 1839.

The copyist will make the underscorings in black ink.

N. P. Trist Esqr.
Consul of the U. S.
Havana.

Sir,

I came into possession Yesterday of Your favor of the 1st Inst, wherein you request me to state as near as I can recollect the conversation we had some time in December last at Madam Roullet's Boarding house, in the chamber occupied by the late Capt Nix of the Navy, wherein he took part, on the subject of the Seamen belonging to the Ship Wm Engs.

You are correct in your first remarks, I agreed with you, from all accts the Capt deserved the punishment & ought to be breaking Stones in lieu of these men. —

I considered him to blame for want of proper discipline on board, in allowing the crew to do as they pleased, until they almost took the management of the Ship out of his hands: to prove this I stated his conduct the previous voyage. As soon as he arrived in Havana they refused duty; he applied to me, I would take no part in it, but told him if he had made the men do their duty, this would not have hapened; & the ship should not bear one dollar's expense that might grow out of the business. But the Ship was detained; the consignees

advised

advised me, I sent another man to take charge of her, but he only arrived the morning she left Havana.

In reply to this I do not recollect, You said if the men's statement were true they did right to mutiny; had you said so I am certain I should have remembered it and should have joined Capt Mix; my opinion is there is no excuse for Mutiny, particularly when a ship is in Port it can never be right.

Our conversation was mostly about young Clark, whose Brother I promised in Boston to do all I could towards having him released: to the enquiries I then made, Capt Mix joined me in opinion you was doing all you could to get him, Clark, out of prison, particularly as I was informed Capt Vaughan never applied to you for an order to take the men from on board, but went directly to the Captain of the Port and without your knowledge he had difficulty with his crew.

In answer to your enquiries I may not be correct: having heard so many statements & not having charged my memory with what was said at the time.

Very respectfully Your Obt. Servt.

Wm. R. Stanhope.

Note. The underscorings in this letter, made by N. P. T.

Havana Consulate No. 84.
Case of the Ship William Eyre.

~~(Documents.)~~

Enclosure No. 4.
Document No. 14.

(Translation)

Government
Political & Military
of
Havana.

In the expediente (a) arising upon the claim which, under date the 14th of January last, was made upon this Government by the Commander of the United States ship Boston, asking the delivery of several seamen belonging to a vessel of the same nation called the William Eyre, confined in the prison of this city for their mutinous conduct, the Auditor of War had, under date the 16th inst., counselled me as follows:

"Most Excellent Sir, — In view of the Declaratory Act of Her Majesty, contained in the Royal Order of the 26th of March last, Your Excellency may be pleased to acknowledge it, and order that it be kept, fulfilled & executed; to which effect the proper orders will be issued for placing at the disposal of the commander of the United States ship Boston, or, in his absence, at that of the Consul of the same nation, the

Six.

(a) All the correspondence and written proceedings of every kind upon any subject are stitched together, and constitute what is called the Expediente of the case.
N.P.T.

Six Seamen named John Taylor, Isaac Clark, Samuel Burnet, Nicholas Helton, John McKenzie, and John Brotjer (Broadfoot), belonging to the ship William Engs, at this time prisoners upon the public works; making known to him also, that all others will be in like manner delivered, whose case may be the same, or who may be confined under a prosecution still pending: also, that the said Royal Order be communicated to H.E. the Commandant General of Marine, to the Commandants General of the Eastern and Central Departments, and to the Military Governors of Matanzas and Cienfuegos; in order that they may keep in view said Sovereign disposition in cases which may in future arise. Such is my opinion: Saving &c."

And conforming to said opinion, I communicate it to Your Lordship, accompanied with the order to the Commander of the Cabaña for the delivery of the abovenamed six Seamen to the person whom you may appoint to receive them; the receipt whereof you will be pleased to acknowledge.

God preserve Y.L. many years. Havana 13 of May 1839.

Joaquin de Ezpeleta.

To the Consul of the United States of America.

GOBIERNO
Político y Militar
de la
HABANA.

Recd. May 13. 1839.

Havana Consulate No. 84. Enclosure No. 4.

(Documents.)

Case of the Ship William Engs. Document No. 14.

En el espediente instruido sobre el reclamo que con fha. de 14 de Enero último hizo el Comandante de la Fragata de los Estados Unidos Boston, á este Gobierno, pidiendo se le entregaran varios marineros pertenecientes á un Buque de la misma Nacion nombrado Williams-Engs, presos en la Cárcel de esta Ciudad, por su conducta demostinada, se ha consultado el Señor Auditor de Guerra, con fecha de 16. del corriente lo que sigue.

"Eltmo Sor = Atendida la declaratoria que se hace por S.M. en la Real orden de 26. de marzo último, fecha de 08. sirviendo acatarla y mandar se guarde, cumpla y ejecute, á cuyo efecto se espidieran las ordenes oportunas para que se pongan á disposicion del Sor. Comandante de la Corbeta de Guerra de los Estados Unidos Boston, ó en su falta de este del Sor. Cónsul de la misma Nacion, los sus marineros nombrados John Taylor, Isaac Clark

James Burnet, Nicolas Nelson
John Mackenzie y Juan Brotfer,
pertenecientes á la Fragata Wellesley
Enges, que se hallan en la actualidad
en el presidio de obras públicas; manifes-
tandole al mismo tiempo á dicho Sor
que les serán igualmente entregados
los demas que se hallen en el mismo
caso ó estén presos con causa pendiente.
Que se comunique la expresada R.l
orden al Escmo. Sor. Comand.te general
de Marina, Sres. Comands.tes generales de
los Departamentos Oriental y del Centro,
y Gobernadores Militares de Matanzas
y Cienfuegos p.a que tengan presente
dicha soberana disposicion en los casos q.
ocurran en lo sucesivo. Tal es mi opinion,
Salvo &.

Y estando conforme con dicho dicta-
men, lo traslado á V. S. acompañandole
la orden para que el Sor. Comandante
de la Cabaña entregue á la persona q.
comisione V. S. los expresados Sres mari-

unos sirvientes abonarme el recibo,

Dios gue á V. S. muchos años

Habana 13 de Mayo de 1837.

Sor. Consul de los Estados Unidos de America

Havana Consulate No. 84. (1.) Enclosure No. 4.

Statement of the case of the Ship William Engs.

[Appendix No. 1.]

Opinion of the Fiscal [Law-adviser of the Court, whose duty it is to follow up the cases before it, and recommend, at the different steps where it is appropriate, the action required by conformity to law] upon which was founded the judgment passed upon the crew of the Wm Engs on the 22.d day of August 1838.

[Translation.]

Fiscal's Opinion

Most Excellent Sir,

The second Fiscal ad interim having this Sumaria (a) before him, says: that by the concurrent testimony of the Seamen of the American Ship William Engs, is proved the resistance made by the accused to the fulfilment of the orders of their captain. Their opposition or disobedience did not arise of a sudden, but was the consequence of a plot, at the head of which was the sailor James Taylor, who was moreover the one who raised his hand against his captain. The fact being established and confessed (b) the Fiscal is impressed with the necessity of repressing these excesses, and also with the mischiefs which would result if the prosecution were continued on through all its stages: for the occurrence having happened within the very vessel, and in presence only of the Captain

I

of the Guatemala Packet, the accused would not have any means whatever to weaken the charges (c) against them which are the present result of the enquiry. Fortunately however, the declarations of this captain, and of a sailor of the Ship, not implicated in the affray, have been ratified by them in acts of cargo (d): so that if to the legal result of these declarations be added that offered by the confessions of the accused, a solid ground is afforded for determining the case, and the salutary effect will be produced of a prompt application of the penalty. These considerations determine the Fiscal to recommend that Your Excellency be pleased to cut short (e) the proceedings by sentencing the Seamen of the Ship William Engs implicated in the plot which gave rise to this prosecution, to two years labor on the public works, and James Taylor, as the head of the conspiracy, to four years. Havana 18 day of August 1838.

(a.) (b.) (c.) (d.) (e.) See the accompanying explanation of the Spanish law of Penal Procedure.

Explanation of the Spanish law of Penal Procedure so far as a knowledge of it is requisite to the understanding of the foregoing document.

The proceedings in a prosecution under the Spanish Penal Code, are divided into two stages: the Sumaria and the Plenario.

The Sumaria is defined to be, a judicial inquest or enquiry, having for object to ascertain the fact of the offence having been committed, the circumstances attending it, and by whom committed; and to secure the person of the offender. It comprises all the steps which may be taken with that view: among which are the establishment of the corpus delicti, the collecting of proofs of all kinds (the depositions of witnesses included) and the taking of the "confesion" of the accused. This,

the

the concluding step of this stage of the proceedings, consists in making him acquainted with all its results, (the depositions and documents of every kind, with the heads of offence appearing therefrom) and then in receiving his answer to the same, whether he admits, or demands proof of, any fact. The proceedings at this stage are kept private, and conducted in secrecy; the witnesses all examined separately, and bound not to disclose the testimony given by them; and every precaution taken to guard both the accused and the public against collusion or concert.

The Plenaire. At this point all the proceedings become public: the past are laid open to the parties, the accuser and the accused and their counsel; and the future take place publicly. Its object is declared to be, to establish the innocence or guilt of the accused, and to pass the sentence of acquittal or condemnation.

The witnesses having been interrogated in the first instance as often

as

as may have seemed necessary, the ratification of the testimony which they may have given next follows. For this purpose, it is read over to them, and they are called upon to say whether they have any thing to add to, or strike from, it; or whether it is as perfect as they can make it. — Then follows the proceeding termed *cause*, which consists in bringing the accused and the witnesses, one by one, face to face, and there interrogating them on the points suggested by the previous stages of the proceeding, establishing their identity, whether they are at enmity, &c. &c. The next step is to reduce the charge against the culprit to its definite and ultimate form, in the *instrument of accusation* (indictment); which instrument being handed over to the accused for his reply, the pleadings begin. In these pleadings, the parties are required to make known what portion of the testimony contained in the *Summaria* they waive proof of, and what portions they require to be proved. If they waive proof in regard to the whole, nothing remains

but

but that the judge examine the Sumaria, and give judgment. If proof be insisted on in regard to the whole, or a part, of the facts appearing in the Sumaria, there re-examination and cross-examination of witnesses in the presence of the higher officers of the tribunal becomes a necessary part of the proceedings. Again are the witnesses brought face to face with the accused, and with each other (if there be conflict of testimony). They are required to reaffirm, in regard to the correctness of their former testimony; this is composed and discussed; and they are subjected to examination and cross-examination.

Such is the course of any penal action, unless "cut short" in the manner prescribed by law. This provides, that if in the innocence of the accused become manifest, let this happen at whatever stage of the proceedings it may, the case shall be immediately cut short, and he be released, without costs, &c. It provides likewise that this process of cutting short shall be applied whenever, upon the closing of the Sumario,

it

it shall manifestly appear that there can be no possible object in pursuing the enquiry further, or that the accused has incurred only some light penalty, not exceeding reprimand, ~~reprimand~~, confinement, or fine. In every such case, it becomes the duty of the Judge or other functionary then engaged in conducting the proceedings, to stay them, and report to the superior tribunal by which the case is to be determined, the grounds for cutting it short; and that tribunal decides whether this shall be done or not.

In the Opinion of the Fiscal, to which this is attached, it will be noticed, that although he recommends the case to be cut short, and the judgment to be rendered upon the Sumario, without any further proceedings, yet he states that the ratificaciones of the two witnesses not implicated in the affray (which ratificaciones could regularly take place only in the second stage of the proceedings) had already been taken.

This

This was a departure from the usual routine. It took place in consequence of the communication addressed by the Consul to the Captain General to avoid the detention of the vessels. [See Despatch No 84. Encl: 4 - Sub-Encl: 1. §111. Critical position of the vessel. And Dec: 5th Part 2.]

N. P. Hill.

Havana Consulate No 84. Enclosure No 7.

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opened

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Havana Consulate No. 84. Enclosure No. 7.

Statement of, with a running commentary upon, what occurred between the Consul of the United States at Havana, and the commander of the United States Ship Boston, in regard to the foregoing cases and to the case of Purser Southall. Including a statement of the latter case.

(Memorandum: the following dates of the arrivals and departures of the Boston are taken from the Book kept at the office of the Captain of the Port.)

Boston's arrival. The United States Ship Boston, Edward. B. Babbit Esq. Commander, arrived at Havana on the 2nd of December 1838. On the next morning, (as well as can be recollected) Commander Babbit called upon the Consul, who showed him the civility of accompanying him to wait upon the Captain General.

Conversation between Commander Babbit & the Consul. As they were about to be shewn into His Excellency's apartment upon this visit of ceremony, an incident occurred which after the visit was over, proved the occasion of a conversation between the Commander and the Consul. The incident, shortly after mentioned in one of the Consul's communications, (No. 61.) to the government, was an attempt

on

on the part of a drunken desperado by the name of Jacob S. Howell, the hero of the case of the Brig Antelope of New Bedford, (reported in the Consuls No. 48) who had been hunting the grog shops for some time past, to introduce himself past the sentinels as one of the party. The Consul perceiving this, as he was about to pass the last sentry, informed him that Captain Howell did not belong to the party; and he was accordingly not suffered to enter: or if so, not, at least, until the visit of the commander of the Boston was over. In the conversation which ensued, the Consul adverted to the unpleasant scenes with a portion of our ship-masters, to which the discharge of his duties subjected him, and was replied to by the commander in a manner implying a full knowledge on his part as to the trouble which the character of a portion of our sea faring men must necessarily give rise to. He added something to this effect, — that several individuals, including the man in question, had addressed themselves to him to make complaint against the Consul; but that they had been told <u>that he had nothing to do with such matters</u>. He further spoke of some communications which, he understood, were to be made to him; in which event, he would do all that his proper agency in such business allowed, by laying them before the Consul and transmitting them to the government at home. His remarks

were

were to the effect generally, that he was fully aware that he had no right to interfere with the bonsul, and that the necessity of receiving such complaints was a great annoy-ance. The bonsul mentioned the game which was play-ing here in regard to himself by some individuals of lost character; a part of whose design it evidently was, to break him down by involving him in correspondence with every naval commander who might enter port, (of which pur-pose the first manifestation had been afforded on the re-cent visit of the United States Schooner Wave,) and he stated to Commander Babbit, that he knew before-hand what sort of communications would be addressed to him, and regretted that he should be put to the trouble of having copies of them made, as this would prove a tedious job to his clerk and a sad waste of time upon matter altogether worthless. He was aware, however, that the form of transmitting them to him could not be avoided, and, upon receiving them, he would, on his part, go through that of acknowledging the receipt, without pretending to engage in the task of explanations, which it was troublesome enough to make once to government, as had already been done in some of these cases and would be done in all at the earliest moment that the interrupt-ions to which he was subject would allow.

So far as the bonsul was aware, Comman-

-der

Mr Babbit appeared to understand the nature of his position: nor did there seem to be the slightest possibility of any discrepancy between their views in regard to the matter.

1st Letter from Commander B. to the Consul.

The conversation first mentioned happened on the 3rd of December; and nothing further occurred on the subject until the 10th of the same month, on which day, the letter of Commander Babbit, under date the 9th, with its enclosures (Sub-enclosure No. 1. ~~Document No. 1.~~) was brought to the Consulate. — On the same day came also the notification, not for the first time, that the Boston (whose stay in port had proved much longer than was announced on her arrival) would positively sail the next morning.

Letter from the master of the Brig Kremlin to Com: B.

Among the enclosures in Commander B's letter, was a copy of one addressed to him by Capt Wendell of the Brig Kremlin, containing a repetition of the mass of falsehood written by that wretched man in the month of October previous to the Commander of the United States Schooner Wave; of which mass the two most prominent components were the following, towit:

its falsehood.

1st That the sole ground upon which he was detained in prison, and had been for "nearly five months", was, his refusal to pay his mate three months extra wages;

2nd That the charge of a different nature, which the Consul had endeavoured to bring against him, had

had been brought since his incarceration!

Consul's reply: circumstances

This letter from Commander Babbit was replied to by the Consul's letter of the 10th (Sub-enclosure No 2. Document No 2.). The character of the letter next addressed by Commander B. to the Consul being such as to render necessary a statement of the circumstances under which this reply of the Consul was written and sent, that statement will be here made. Particular attention is invited to it.—

under which letter was sent.

The Consul has a recollection of his having been on that day so closely engaged as to render it impossible for him to write at all to Commander B, — except at extreme inconvenience to himself; and that it was a pretty severe trial to his patience, that a communication from an officer having the command of his whole time, and supplied by government with a clerk, should be so timed as to subject his correspondent to great unnecessary trouble, as the sole alternative to allowing the Commander to depart without a reply. Upon being searched for, the original draft of the Consul's letter proves to be written in pencil: a mode never used by him except at night, when, too much exhausted to sit any longer at his writing table, he had to resort to the pencil because while seeking relief to a wearied frame and aching back, in a Spanish chair, he could not hold the pen so

that

that the ink could flow from it.

The letter being written at night at the Consul's residence outside the walls, the gates of which close at half past ten; arrangements had then to be made to ensure its being put on board the Boston in the morning, before her "day break" flight. — The sole mode that could be adopted for the purpose was, to send it in by the Consul's clerk, who had to make haste back to avoid being locked in the city. The person in the city, selected for sending it to, was a Ship-Chandler Dn. Jose Cabarga, a perfectly sober, active man, who makes it his business to be on the water by peep of day, boarding vessels bound out and in, to offer his services to the latter, and furnish to the former the last supplies required by them. This man is very obliging to the Consul, as it is his interest to be; and he is occasionally employed by him to deliver letters on board of vessels, when there is no special reason for having this done by a special messenger.

Departure of the Boston, Dec. 18th.

From some cause which the Consul never took the trouble to enquire into, the Boston did not sail on the morning of the 18th. She did, however, get out in the afternoon; and nothing further was heard of her until the 5th of the ensuing month, January 1839; when she again entered port. —

Her return, Jan. 5. 1839.

mander
visits the
ul.

On the morning of that day, as well as can be recol=
=lected, the Consul was honored with a call from Commander
Babbit, accompanied by Purser Southall, who came and went
in an apparently very friendly mood. During this visit, the
following incident occurred.

ident.

The Commander stated that he had merely called in,
on his return to Pensacola, and would take charge of any
communications the Consul might have; and upon the
latter's enquiring what stay he would make, he replied "a day
or two only, we must go immediately, for our provisions are
all but out." He added, "We hope to find the Macedonian
there". This was uttered in such a tone as to produce upon
the Consul's mind the impression that something connected
with the service was the matter, and to elicit from him
the question, "Why?" — Whereupon, exchanging glances
with Mr. Southall, and in a manner somewhat confused,
Commander B. replied "Oh! we want to find another
Commodore there, when we get back". This brought to
the Consul's recollection, that upon the first arrival of the
Boston, he had heard something of her having been ordered to
sea by Commodore Dallas, in consequence of a difficulty
between him and Commander Babbit. Feeling no curiosity
to learn anything further on the subject, the Consul did not
pursue his enquiry.

mand: B.'s

The day or two which the Boston was to stay was,

by

2d. letter. by one postponement and then another, protracted from the 5th. to the 12th. of January, upon which day the Consul received Sub-enclosure No 3. Commander Babbit's letter of the 11th. (~~Document No 3~~) closing with "I shall leave here tomorrow or next day for Pensacola."

This letter not having been received by the Consul until the "tomorrow," it followed, that the sailing of the Boston would take place on the "next day." Besides that caused by the necessity of perusing the letter, the Consul was subjected therefore to the further interruption of his own proper avocations and those of his clerk, (among which he did not conceive the maintenance of such a correspondence to be,) consequent upon the necessity of replying without delay to the offer to take charge of any communications he might have to make to the Commander of the Squadron. Whatever the Consul might think of the rest of the letter, this offer being a proper one, it was proper to reply to it. This was accordingly done by the Consul's letter of January 12th. 1839 (Sub-enclosure ~~Document~~ No. 4.) The Consul now thinks that this answer ought to have been confined exclusively to the offer to take charge of his communications for the Commodore, and that it ought not to have bestowed any notice whatever upon the parts of Commander B's letter, alluded to as calling for explanations. The

Consul's reply:

What it ought to have been.

error

error committed by the Consul in noticing these parts,
and the manner in which this was done, serve however
to show the spirit in which he acted; which was a feel-
-ing of sincere commiseration for the unfortunate man
whose deplorable condition a set of miscreants were
availing themselves of, to make a tool of him, and a
determination that the condition and departure of the
man should not cause a forgetfulness of the decorum due
to the commission and the command which he held.

Intimacy between Commander B. & confederacy Clark, Muttead & Co.

Before the receipt of this letter from Commander
Babbit, circumstances, which were matters of current no-
-toriety in the port, had come to the ears of the consul also,
evincing the existence of relations between the officers of
the Boston, especially her Commander and his friend Pur-
-ser Southall, of the one part, and Ferdinand Clark, Dr.
Burnstead, Capt. Wendell &c, on the other, which de-
-monstrated that the Commander was completely in
the hands of the confederates, of whose glorious company,
the Purser had probably become an accepted member,
through his intimacy with Dr. Burnstead, and a most
efficient ally through the opportunities afforded by cabin
and shore going companionship with "the Captain."

Character of B.'s letter.

This demonstration was confirmed by the first
paragraph of Commander B.'s letter; which, as evincive of
the state of his intellect, and the spirit towards the

Consul

Consul that dictated the communication, and continued to actuate him from that time forward, demands special notice.

In the first place, note how the circumstance of the Consul's reply not being received "until the morning of my leaving that port" is stated as affording ground of complaint; and how, coupled with this ground of complaint, and forming a suitable introduction thereto, a ground for umbrage is advanced in the assertion, that it was "left with a Grocer." Would any one, on perusing this paragraph, ever divine that the morning "until" which the Consul's letter was not received was the very first morning on which it could be received, — sensibly less than twenty-four hours after the receipt by him of the communication to which it was a reply? Would he ever divine that this complaint of dilatoriness came from an officer who, with nothing to do, and with a clerk furnished him by government, to save him from the necessity of being occupied in writing perhaps on an average five minutes a day or less, allowed four days to pass after the receipt of the last of the communications addressed to him, and six days after the receipt of the first, before the Consul received a line from him on the subject? Would any reader take the assertion, that the Consul's letter was "left

"left with a Grocer", in any other sense than that in which it is an absolute falsehood, to wit: that it was left at a Grocery, to find its way to Commander Babbit, when and how it might? This is the sense in which, if it had ten thousand readers, this assertion would be received by the whole ten thousand. Not one would ever dream of the true nature of the facts and circumstances on which it was bottomed; — that, owing to the — what shall it be called? — of Commander Babbit, his communication was not sent to the Consul, until within less than twenty four hours of the moment fixed by himself for his departure; so that, circumstanced as the Consul was, it proved impossible for him to write a reply except at a late hour of the night when Commander Babbit and his associates were probably at the Opera, or enjoying themselves at some other place of public resort, and the Consul and his clerk ought to have been taking the rest which this task obliged them to postpone. Not one would ever imagine, that, so far from being deposited at a grocery to take its chance, as would be inferred from Commander B's assertion, the Consul's letter was carried late at night, to a ship-chandler, who, because he was a ship--chandler, offered one of the surest ways that could possibly be used for conveying the letter on board

the

the Boston at the earliest hour next morning.

That it was conveyed according to the Consul's design is proved by the Commander's complaint that "I did not receive it until the morning of my leaving this port"; which complaint, by the by, to accord with the truth, should read "until the morning of the day of my leaving this port": for conveying, as it does, the idea that the Boston left port in the morning, it conveys an untruth. So far at least, as recollections of such an event can be relied upon, she did not get under weigh till the afternoon. Could he but have known it, there was no necessity for the Consul's putting himself and clerk to all that trouble. There was something about the Boston that rendered it next to impossible for her to get out of the port of Havana; and when, after the usual announcement "to sail tomorrow," she was seen actually under weigh, the effect was like that of the appearance of the wolf after the cry which had lost all power to awaken belief in his coming.

No further remark will be made upon the letter, except that its tone and sense throughout are in keeping with those of the first paragraph: evincing a settled purpose to discover causes for umbrage and pick a quarrel. In one breath instructing the Consul in international law, and dictating the

course

course which he was to pursue; in the next taking offence at the closing remark of his letter, "had the circumstances been such as to afford any possibility that your cooperation with me could be of any avail, it would have been called for," and making it a loop upon which to hang a fan-farronade assertion of the right of Commander Babbit,— as if this had been called in dispute, to "hear the com-plaints of my country-men" &c. And this introduced with a pompous announcement, as of a thing which the Consul's letter created the necessity of making procla-mation of by sound of trumpet, "that the Commanders of Ships of War of the United States are sent to the different foreign ports for the protection of our commercial interests and the Citizens of the U. States." (A doctrine, by the by, which Commander B's. course on this occasion proves the necessity of affixing a somewhat definite meaning to: deciding with regard to it,— 1st. Whether it authorizes the commander of every British or French or other Foreign Sloop of war or gun-brig which may visit New York, for instance, to force the Governor of that state into a correspondence on points of international law, requi-ring him to give an account of every British or other foreign subject who may chance to be in jail or peni-tentiary there? 2d. Whether, supposing such authe-rity to reside in commanders, the sacred duty of

protecting

protecting citizens of the U. States shall with impunity be used, by a commander under positive orders to be at sea, as a mere pretext for yielding to the impulses of his own crapulous imbecility, enforced perhaps by the suggestions of his purser and his purser's shore-friends, by lingering in port from hour to hour for a period of forty three days: passing the carnival on shore and setting to his officers such an example as made of himself and his uniform, under the eyes of the assembled squadrons of Britain and of France, the common town-talk, the spectacle and the shame during the whole period?)

All this fanfaronade and parade of lofty principles, in reply too, to a letter received from the Consul a whole month before; and now disturbed from its innocent slumber at the bottom of Commander B's. desk, to be made the target for such thunder! The letter is received on the morning of the 11th. of December, — the Boston sails in the afternoon, — on the 5th of January she returns to port, and her Commander visits the Consul apparently in the most cordial manner, tells him that he will positively sail in one or two days and says not a word about the letter. — A week passes, — the Boston is still in port, — and then, lo and behold! what an avalanche of wrath upon the head of the poor Consul!

Such

Such a mode of proceeding cannot but prove
rather trying to any human patience; even although the
actor be one, whom, from his making himself at the same
time the common town talk as an infatuated sot, on
the verge of mania a potu, it would be childishness
to indulge in resentment against. — Accordingly, it was
not without satisfaction on his own account as well as
that of the national character, that the Consul received
the assurance, (such as it could be, seeing the imbecility
on which its fulfilment depended) contained in this
letter of Commander B, that the Boston was to sail
"tomorrow or next day."

This assurance was under date the 11th of
January. The Boston weighed anchor on the 17th of
February: forty-three days after she had just called
in, for one day or two at most, on her return to Pen-
sacola; which return immediately, was rendered indis-
pensable, by the fact that her provisions were out!

(The Consul has recently been told, that the
orders under which Commander B put to sea from
Pensacola, were, that he should remain at sea so long
as his provisions lasted. This explains the necessity for
assigning the reason which was assigned for the second
visit of the Boston to Havana on the 5th of January,
to wit: that she was on her return to Pensacola;

her

her provisions being out. By the fulfilment of this condition, the order requiring her to remain at sea ceased to be in force. The Consul now believes that the necessity and purpose of this immediate return to Pensacola was a mere pretext, used, as an inference from the fact that the provisions were out, to give color to the assertion that this fact existed. — Upon what was the crew subsisted during the six weeks that the Ship lay at Havana before she proceeded on her "immediate return" to Pensacola? The answer to this question will show whether the state of things which, under the order for the cruise, authorized the commander to bring his cruise to an end, had or had not arisen. If it had not arisen, then, it is a plain matter of fact, that the only reason upon which could possibly be founded an intention on the part of Commander B to return immediately to Pensacola, did not exist. Consequently, supposing him to be in his senses, that intention could not possibly exist. It was therefore feigned. And for what purpose? The purpose is manifest. It was, to give color to the asserted existence of that state of things (the provisions being out) on which alone the Commander could place his justification for not being at sea. — The Havana Carnival is just to begin. It would be

Not pretext examined into.

much

much more pleasant to be passing one's time amidst its debaucheries than to be tossed about in "the gulf" or even lying "inside the Florida reefs from Sombrero Key to the Dry Tortugas." But our orders require us to be at sea, so long as the provisions hold out. – Well: we can at least set out on our return from this cursed cruise, touching at Havana, and taking care not to get back to Pensacola till the provisions are really out, or till we can be sure to find another Commodore there. Arriving at Havana with our provisions out, and under the necessity therefore of departing immediately we can't well avoid being favored so far by the Chapter of accidents as to be detained there long enough for our purpose. The duty of protecting American citizens, and, with the aid of our friends Fernando Clark and Burnstead, looking into the doings of this Consul of ours, will furnish occupation for some weeks, the leisure hours of which can be passed at the Opera, masquerades &c &c.

This, so far as the state of Commander Babbitt's mind admits the supposition that his course was governed by any consistent train of thought or deliberate plan, the Consul believes to have been the plan on which the latter part of the Boston's cruise was performed in the harbor of Havana. – At any rate, it is

scarcely

scarcely to be supposed that he entered that port on the 5th of January, in pursuance of a definite, settled purpose to return straight to Pensacola and report himself to the Commodore who had sent him to sea with orders to cruise in the gulf until his provisions should be out. Any such purpose, if it existed, was doubtless in the vague state, common to the purposes of minds in that condition; admirably adapted to the reception of such modifications as might be suggested by the seductions of an Havana Carnival, as it might suit the philanthropic and patriotic purpose of Fernando Clark & Dr. Bumstead, aided by Purser Southall, to impart to them. — Nor, on the other hand, is it probable, either, that supposing a plan, his stay at Havana was premeditated to the full extent to which it was protracted. Although, on entering port, it was probably known that the provisions were not so literally out as to render it unsafe to linger long enough to enjoy a masquerade or two; yet it could scarcely have been purposed to see the whole affair, and not to weigh anchor until the very snuff of the Carnival was out. It so happened however: the day of the sailing of the Boston, as obtained from the office of the Captain of the Port, being the 17th of February

February, the first day of Lent.)

To return from this digression, in which the order of time has been somewhat departed from, the Consul will state, that although the Boston did not get under weigh "next day"; yet, on several occasions about this time, there were notifications that she was to sail "next day", and consequent hurryings and settlings of accounts; until, at last, the very ship-chandler who furnished her supplies had become so sick of the whole affair, that the Vice-Consul intimated to the Consul, that the Ship-chandler would, no doubt, gladly be one of several who would put their names to a subscription paper for procuring a steamer if that could ensure the fulfilment of the announcement for "next day."

Says fixed the Boston's departure.

An earnest of its accomplishment was afforded in the shape of Commander Babbitt's letter of the 16th of January, brought to the Consulate at 6 o'clock in the evening of that day, which, appearing like a parting instruction, conveyed the idea that the Commander really intended to sail on this "tomorrow morning." In this letter (Sub-enclosure No. 5.) it will be perceived, that after acknowledging the receipt of the Consul's of the 12th, he reinstructs the latter in the point of law, that "such offences committed under our flag are only cognizable to the courts of our own government",

Com: B.'s 3rd letter.

government,' and repeats his injunction that the Consul use his influence to have them sent to the United States for a trial.

Com: B. merged in Clark, Bumstead & Co.

After this, although the Boston did not get away, the Consul was not favored with any further communications from Commander B. for a period of about three weeks. During this interval, however, there were manifest indications of a complete merger of Commander B and Purser Southall into the firm of Clark, Bumstead, Wendell & Co, - who loudly exulted in the certainty that this time

Capt. Wendell's activity in one of the Boston's boats.

the Consul was done for. Wendell, the hero in the case of the Brig Hermlin, had recently been released from prison; owing, (as it was proclaimed) to the patriotic energy of Capt Babbit, (who had just as much to do with his release as he had with what was going on at the same moment in the Star Sirius,) and he was now understood to be a depen-dent of Fernando Clark, and very active, with a boat of the Boston at his command, - (though this may have been a mere boast to show the consequence his intimacy with Capt. Babbit imparted) - going about from Ship to Ship, in quest, it was said of additional signatures to those which had been gathered at the drinking establishments: to prove what

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an execrable Spanish aristocrat and tyrant the Consul was, and what a noble hearted, magnanimous, intrepid asserter of American rights existed in the person of Commander Babbit.

Memor of correspondence between Com: B. and Capt: Gen.l

It was also understood that the Commander (who was reported to be afflicted with such weak eyes, that, on the evening of his introduction at the whist-club, he was under the necessity of taking "another pull" at brandy and water, in order to enable him to see the cards,) was engaged in a deeply important correspondence with the Captn. General, which, besides the effect of settling certain points of international law, would be attended with that of exposing the ignorance and misconduct of the Consul, so as inevitably to lead to his dismissal. —

Com: B.'s discovery of treachery & falsehood on part of the Consul.

Among other things which at this period came to the ears of the Consul was the following notable discovery of Commander Babbit. It related to the letter addressed by the Consul to the Captain General, asking that the men of the Wm Engs should be tried and punished at Havana, which letter (See Enclosure No 4: ~~Enc 2~~ Sub-enclosure No 2) formed a vitally essential part of one of the most important of the series of cases which the Consul had been preparing to lay before the Government, as illustrative of the state of things in the Merchant-service of the United States. Commander Babbit had actually discovered the existence of such a letter, and had succeeded in obtaining a copy of it from the Captain General. And this letter, besides

the

the gross abandonment involved in it of the rights of the United States on the part of the Consul, convicted him of falsehood!

Such was the occupation with regard to the Consul of the United States of America at Havana, wherein the Commander of the United States Ship Boston was publicly said to be engaged! — It was a matter of public talk; — too good a theme for exultation on the part of Clark, Bunstead &c., to allow it to be kept hid under a bushel; — and yet the whole proceeding was managed with Stygian mystery, in order that the Consul should have no suspicion of the awful disclosures which impended over his doomed head! The last of the sources from which the Consul derived a knowledge of this Paican shot, whereby his character was to be blown to pieces, was Mr. Saserac, a frenchman who earns his subsistence in part as a translator; in which capacity he has been long employed by the Consul. About the beginning of February, this gentleman, seeming to think that the relations which subsisted between them required an apology for his permitting himself to be used in a plot against the Consul, informed him that he had been employed by Commander Babbit, with a strict injunction not to let the Consul know of it, to make a version into English, of the letter addressed by the Consul to the Captain General on the subject of the seamen of the Ship

Revelation to the Consul by M. S. the translator.

Ship Wm Engs! The apology made by Mr L. was, that he thought he might as well earn the money as another: to which he added, that the job had proved so hard a one, that, notwithstanding Commander B's injunction, he had had a great mind to spare himself the labor by applying to the Consul for permission to take a copy of the original letter in English. — The Consul, of course, replied that he would have been welcome to it, and that he need never entertain any scruple about making money for his family, because those who might offer him work might happen to be engaged in plots against the Consul. To take their work and keep their secrets, was what the Consul wished him to do on all such occasions.

his discov= communi= cated to the sul by Con:)

(The Ostrich mystery of Commander Babbit in regard to this letter was, as will be seen, brought to a close on the 11th of April, when the Commander sprung the mine which had been so long preparing in a secrecy that made it the common talk of Havana, by conveying to the Consul the appalling intelligence, its horrors made the more searing to his eye-balls by a deep underscoring, — that that letter is "now in my possession".)

ge of false= : on what med.

The charge of falsehood connected with this letter, could have reference to nothing else than the fact, that in replying to the communication first addressed to him by Commander Babbit, the Consul had not entered

into

into a circumstantial narrative of the case of the seamen of the Wm Engs; and, not doing so, had omitted all mention of his letter to the Captain General, because this could not be mentioned without entering into the reasons which led to it, and which dated from years back. — In this libel upon himself and in the disgrace to his country which attended its propagation, the Consul reaped the perhaps not unmerited fruits of the official impropriety whereof he had been guilty in bestowing upon Commander Babbitt's communication any further notice than a naked acknowledgment of its receipt, coupled with an intimation that the Consul could not engage in any correspondence with him upon these or any kindred subjects: a portion of them having been already reported upon to government, and the remainder destined to be so, as part of a series of cases, so soon as the interruptions to which he was subjected would allow ~~the Consul~~ him to prepare the documents and accompanying explanations for transmission.

Such ought to have been the Consul's reply; and would have been; but for his disposition to pursue, at the expense of a little trouble to himself as well as of a slight abandonment of official right, a course analogous to that which in private life recommends itself

itself to a considerate man thrown into a similar relation with one not in possession of his reason. It was no difficult matter to perceive, as the Consul did, the propriety of his pursuing the course least likely to produce excitement in the mind of Commander B: as this, if once brought on, could scarcely fail to prove at least an addition to the already far too numerous sources of trouble to the government, arising from the collisions into which, very contrary to his wishes, the Consul is thrown.

From the 16th of January until the 6th of February, the Consul received no further communications from Commander Babbit.

B.'s letter.

On that day, a few minutes before meridian, Commander B's. letter, under date the day previous (Sub-enclosure No. 6.) (Doc. 6.) was brought to the Consulate.

This letter, it will be perceived, relates to the case of Purser Southall, which had happened on the night of the second of the month; — and now, at meridian on the sixth, the Consul received for the first time any direct information on the subject! So utterly had Commander B. become merged in Clark, Bumstead, &c, that (as scarcely admits of doubt) the Consul would not have been communicated with on the subject at all, but for a remark made by him on the day previous in

course of the Consul in relation to the case of Purser Southall.

replying

replying to an enquiry from Dr. Ballard of Louisiana, as to what measures were being taken in regard to the business. Under the necessity of replying to that gentleman (as he was to numberless others, americans and foreigners, who questioned him as the person who, of course, must know all about it) that he was utterly in the dark upon the subject, having down to that moment not heard a syllable with regard to it, from the Commander of the Boston or any of her officers, — the Consul added in replying to Dr. Ballard, that it was even so, — that he had not been communicated with, and had been placed under the necessity of so stating to the Captain General, upon being spoken to by him; and that the Government of the United States should know it, and should decide whether it was fit and proper that the Consul of the United States should be under the necessity, in regard to a topic of so much excitement, of replying to the officers of the government here, to his fellow citizens, to foreign Consuls, to every one (for every one addressed him as the person who could certainly tell the truth of the matter: what had happened, and how, and what was doing,) that he knew absolutely nothing about it. — This remark was repeated, & made the topic of remark by Dr. Ballard to Mr. S. P. Sturgis; who, having as bearer

of

of despatches, become an inmate of the Boston, was spoken to on this subject by doctor B.— The opinion expressed by this gentleman, that, whatever might be the grounds of complaint against the Consul, still, so long as he was the Consul, he ought not to be so dealt with; — this opinion, the Consul has no doubt, proved the means of bringing (or partially bringing, that is, so far as he could be brought to them on any subject) Commander Babbit to his senses on this particular point, and thereby proved the sole cause of the Consul's ever hearing a word on the subject. Being probably remonstrated with, and thereby aroused from his stupefaction to the point of being made sensible that, although the Consul said not a word, yet a respectable american citizen, a mere spectator, had his sense of propriety shocked by the deportment exhibited towards the Consul, Commander Babbit or those who had the steering of his course bethought them that it would be politic to alter it in this respect.

Consul's re-
ply.

His communication from Commander Babbit was replied to immediately, by the Consul's letter of the 8th of February, (Sub-enclosure No. 7) and, in pursuance of the intention therein expressed, the Consul addressed to the Captain General

Consul's let-
ter to the Capt Genl

the letter of the same date, (Sub-enclosure No. 8) which could not be copied out in time to deliver it until the next morning before breakfast. —

Sir

Timing of Com: B's letter. Inconvenience produced thereby.

(In this instance again, the timing of Commander B's communication, delayed as it was until the middle of the fourth day after the occurrence, although dated the day previous, and consequently requiring of the Consul the utmost despatch, however inconvenient it might be, proved the cause of his not getting home that day until 10 o'clock P.M. without having taken any sustenance since breakfast.— In a business of importance to the Government, and in which despatch was vitally so,— (the Miranda Florida case) — the Consul had, with a good deal of pains, obtained from one of the witnesses to be examined, Dr. Jose Maria Oliva, an appointment for that day at four o'clock, at his residence in a suburb two miles distant. With a view to this appointment the Consul had, on leaving home that morning for his office, changed his dinner hour from four to two o'clock, intending to come by his house and take some food on his way to this appointment which involved several hours of writing.— This plan was frustrated by Commander B's selection of time for his communication. The Consul remained at his office till the last moment, writing his answer to Commander B. and his communication to the Captain General, in order that the fair copies

of

of these might be ready for his signature on his return
from Señor Oliva's. There he was closely engaged writing
until nearly nine o'clock; and on his return, instead of
being able to turn towards his own house, he had to proceed
to his office, nearly a mile off in an opposite direction,
where his clerk had been left with instructions to get
his dinner at an eating-house and return to his writing.
The night was pitch dark and very blustering, and the
waves running high; but there was no knowing,
should the reply to Commander B. not be delivered
that day, what new fabrication might be grounded
on this circumstance: so the poor, worn out clerk
was despatched with it, and came back drenched
with spray, to hasten with the Consul to get out of
the gates to their rest after this Babbit day's work.)

In the Consul's reply to Commander Babbit,
as will be noticed, he mentions the circumstance, that
his conversation with the Captain General about
the middle of the day, on the day preceding (the
third day after the occurrence) was previous to the
receipt by the Captain General of Commander Babbit's
communication. — That communication bears date
the 4th of February, (the second day after the occurrence)
It was not sent until the 5th of February, (the third day
after the occurrence), on which day, as he was leaving the

Captain

Captain General's, a little ~~earlier than~~ before meridian, the Consul met in the Antechamber Lieut Moore of the Boston, who was the bearer of the communication dated on the second day after the occurrence.

Importance of these dates.— chiefly as indications.

These dates are thus particularly refered to, not because of any importance necessarily belonging to such circumstances considered in themselves only, but from their being pregnant indications, accordant with every other that came from the same quarter, of the state of things on board the Boston.— Here is an occurrence, prolific of rumours that set the whole city in commotion. One day passes, a second passes, and no sign of life comes from the Boston. What does the Captain General infer from this? What is the inference generally drawn from it throughout the city? Why, that the Boston is ashamed of it, and is willing to let the matter pass off: thus countenancing the idea that the Sentinel had been compelled reluctantly to use his weapon in defence of his person against an overflowing of pot vala! The third day is well advanced, and then, a communication is carried to the Captain General. And this communication is dated on the day previous,— the second day. Why was it not written and sent on the first day after the occurrence, the same day when the Purser's report, enclosed in it, is dated?

Inference generally drawn from the delay in reporting the case to the Capt. General.

dated? And if it could not be written and sent on the first, why, was it not on the second day?

The Consul's absence from silence to=wards himself.

Meanwhile the Consul is kept in the dark upon the subject. He has met the officer carrying in a communication to the Captain General. What is he to infer from this? Why that Commander Babbit sees fit to conduct the business without making him privy to it. — And this inference is left to gain strength until the next day, (the fourth day,) when, about meridian, a communication is received, which, like that addressed to the Captain General is antedated.

The Boston departs.

On the 17th of February the Boston at length sails for Pensacola.

The Boston returns. Mes=sage to Consul. to Capt. Gen.l

On the 2nd of April she again enters the port of Havana. The first Lieut. is sent to the Consulate with a message that the Commander would call in person "but he is sick". The Consul is therefore requested to accompany the Lieut. to the Capt.n General, to come to an understanding about the parting salute, the ship being homeward bound on her return from the station; and also to inform H.E. that she will sail "tomorrow or next day", and will take any communication which H.E. might have for the U. States: This offer being made to the Consul also. — To this the Consul replies that there is no occasion to trouble H.E. with a visit on the subject of the salute: inasmuch as it may be fired with the assurance that it will be answered gun for gun; but

Guns fired for departure.

if

if the Lieut wishes to deliver in person the offer to take charge of H. B's communications, he will be accompanied by the Consul's clerk, who will interpret for him. — This offer is accepted; and the clerk on his return from making the call informs the Consul that the 1st Lieut stated to H. B. that the Boston would probably sail "tomorrow". —

Com: B.'s 5th letter to the Consul: its tone.

No further communication of any kind took place between the Consul and the Commander or officers of the Boston, until the 4th of April; upon which day he received Commander Babbit's letter of that date, (Sub-Enclosure No 9) ~~(Doc 9)~~ wherein as will be perceived, the Consul is called upon "to demand of the Captain General copies of the testimony given in the case of Purser Southall." In a subsequent communication from Commander Babbit, speaking of the present, he says that it desired the Consul "to demand a copy" &c, without any underscoring of the word "demand". It becomes therefore necessary here to point to the fact, that, in the communication of Commander B., as received and now transmitted, this word was, as it now is, underscored. It is not necessary to observe, that this underscoring imparted to it a peculiar meaning, and that this imparted to the note itself, as conveying a call upon the Consul, a significance of peremptoriness which, without the emphasis thus laid upon it, it would not have possessed. In perfect keeping with this underscoring (harmonizing as

Mode of its delivery.

as it did with the general understanding, which by the time the Boston had been visited by one or two of the persons laboring under grievances at the Consul's hands, ran round the port like wild-fire, (viz: that Commander Babbit was going pathwith to instruct the Consul in his duties, redress grievances, and set all to rights,) was the mode and manner of delivery a-dopted for Commander Babbit's communication. The bearer was Purser Southall, who, entering the Consulate in full uniform, (the only time the Consul recollects to have seen him thus equipped,) bore up magistically to where the Consul was writing; and, laying the document upon the desk, in a very emphatic manner, observed, in a corres-ponding tone, "there, Sir, is a communication from Captain Babbit"! The scene impressed the Consul with the idea, that it would have been a very well acted sum-mons to surrender at discretion, had he been the com-mander of the little Punta fort, and Mr. Purser been the messenger from a long line of Seventy-fours an-chored in position, announcing a Paixan hail storm, as the alternative to instant submission.

The enclosure contained in Commander B's letter, (the communication he had received from the Captain General) being at Purser Southall's request delivered to him, he was informed that Commander B. should immediately receive a reply. Thereupon he took his leave;

for South-'s statem't. pointed con-diction with t of Mr ngis, his ters.

leave; not however until, in a burst at "the infamous false hoods" which he said were contained in the Captain General's letter, he stated to me how he was deporting himself at the moment the Lancer wounded him, and in doing so made a statement in most pointed contradiction with that made to me, and no doubt to dozens of others, by Mr. Samuel. P. Sturgis of Boston, his companion on that occasion.

Statement of Mr. Sturgis.

With regard to the allegation that Purser Southall had raised his cane upon the Soldier, Mr Sturgis, acknowledging that he had raised his cane, (a small rattan or whalebone) denied that it was for the purpose of striking. The account received by the Consul from Mr Sturgis's own lips, and also from several other individuals who had on different occasions received it directly from Mr Sturgis, was as follows: (there were however some slight variations in the different copies of the attitude, and the Consul gives that which was enacted before his eyes.) Purser Southall stood facing the Lancer, his rattan elevated in his right hand, which was a few inches from his right eye and a little above its level. Shaking the rattan, he repeatedly said to the Lancer, "Strike if you dare, I am an American Officer, strike me if you dare." Not intending, said Mr. Sturgis, to strike the soldier; but merely defying him to strike.

Now,

Now, taking this for the exact state of the case, and assuming that there was no intention to strike the Lancer, it is very obvious, as the Consul remarked to Dr. Ballard and some other Americans, that the line separating the intention to strike from the intention not to strike was a very nice one, particularly when it was taken into consideration that the man upon or towards whom the stick was thus raised did not understand a word of what was said to him, and was a <u>soldier</u>, placed under circumstances in which his first duty was, <u>to make his person respected</u>.

Be this as it may, the discrepancy between this account by Mr. Sturgis in the month of February, and the remark made to the Consul by Mr. Southall in the month of April is not a little remarkable. "Tis all an infamous falsehood, Sir," said Mr Southall, referring to the Captain General's communication just brought by him, "and I can prove it. I made no threats. <u>I folded my arms on my breast</u>, and said, I am an American officer, strike me if you dare."

The Consul will add to this the only other scrap of anything in the shape of evidence that has come to his knowledge. — Dr. Ballard of Louisiana, who saw Purser Southall at the theatre shortly after, had informed the Consul that he did not consider him intoxicated;

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although, he added, ~~[illegible]~~ we all knew how such an affair was likely to sober a man. — On the night of the 6th. of February, after the Consuls' letter to the Captain General was written, as he was returning from the house of Sr. Oliva, in company with the Mr. Sarcrac already mentioned, who was associated with him in the Commission on the Miranda case, this gentleman began to talk of the Southall affair, evincing a decided leaning towards the American party, and a most decided antipathy (this is confidentially stated) against the Spaniards. After running on in his vivacious french way, giving the various accounts afloat of the incidents of the business, he remarked in french, speaking of Purser Southall, whom he had seen just after, "*Il dine oraie, il etait aussi un peu pris.*" (But to tell the truth, he was a little corned.) "Take care," remarked the Consul, "how you talk in that way. I have been told that he was sober!" "*Oh!*" resumed Sarcrac, "*je ne dis pas qu'il etait sou. Mais il avait au moins bien dine.*" (Oh! I dont say that he was drunk. But he had at least dined heartily.) And here a hearty french laugh was followed by the confirmation of this incident, in corroboration of what he had just stated. "He invited me," said Sarcrac, "to take something to drink with him. And as we stood at the bar, he dropped several dollars worth of

peretas.

pesetas. Seeing that he did not notice this, I remarked to him you have dropped your money. Whereupon he said Oh! and made a gesture signifying, let it go. So I picked up his money for him.

Consul's ltr to Com: Babbit.

The tone of Commander Babbit's note, — the uncertainty as to what might have passed between him and the Capt.n General, — and all things connected with his condition, whether directly or indirectly, making it most desirable that the Boston should depart at the earliest moment possible, — all conspired to determine the Consul to the course of declining to have anything to do with the proceedings of Commander B. on this subject; and, should he find another subject for correspondence, then to decline peremptorily to hold any with him on any subject. — In pursuance of this resolve, the Consul's letter (Sub-enclosure No. 10) ~~Doc 10.~~ was sent to him, in the hope that it would have the effect of breaking the spell that bound the ship to this port, by hurrying the Commander off to lay this grievance before the government without loss of time.

Com: B. addressed himself to Capt. Gen.l

In this however, the Consul was disappointed. Commander B. addressed himself directly to the Captain General, whether in the time of demand which he prescribed to the Consul, or in one less imperial, the government will have the means of knowing. The Captain General's reply

plied to on 8th April.

went to him on the 8th of April; after which the Boston's

station

"tomorrow" did not last more than a week. Which time

was

during the last week of the Boston's "day or two" stop.

was, from all appearances and accounts, well employed in concert with Clark, Bumstead & Co., in collecting and preparing the munitions, and arranging the plan, for a grand combined movement against the villain of a Consul.

Com: B.'s 6th of last letter to the Consul (not replied to.) Its character.

As an earnest of what he was to expect, the Consul received on the 11th of April Commander Babbit's communication of that date, (Sub-enclosure No. 11.) (Doc. 14) which is made up of fair samples of the stuff that had been collecting and concocting at Havana, to be discharged through news-papers in the United States, still more unconscious of who and what they are being made the tools of than the miserable man whose name they are parading. That is, than he <u>was</u> at the outset: for, that he had, before his final departure from Havana, ceased to be unconscious of his actions, and had become well aware of the predicament in which he had involved himself, is plain enough. Superadded to the indications which pervade this production, of the state of imbecility of the writer, are manifestations no less decided, of a guilty conscience, offering excuses in anticipation of blame, resorting to the lowest artifices of misrepresentation and untruth, and hoping to conceal the rottenness of the whole proceeding by raising a great smoke of patriotic profession. In a word this communi-

-cation

=cation betrays the consciousness of the writer and those with whose assistance it was concocted, that they had sealed their own doom, unless by stealing a march upon truth, they should be able to forestall public opinion. Hence their haste to get to press; and the simultaneous proclamation in our sea-ports from New England to Louisiana, of a string of falsehoods glorifying Commander B. and defaming the Consul; and no less false in their glorification than in their defamation.

Boston's final departure.

To the great relief of every American possessing a feeling for the character of his country, the Boston at length weighed anchor on the 15th of April, on her return home; and it was fondly hoped, that, once fairly past the Moors, there would be an end of her as a theme for Havana wonder, and all recollections of her would be allowed to subside without disturbance. This hope, however, was not destined to be realized.

New "Boston" incident.

On the 2d of May, the Schr. Victory entered the port of Havana from Key West; and the following statement, (on a subject which became a topic of general enquiry of the Consul) was made to the Vice Consul by the master. He had brought over as passengers a Mr. La Bruyere and his family, citizens of the United States, who had been deposited at Key West by the United States Ship Boston. After

waiting

waiting there some time in the hope of an opportunity offering for the States, Mr. La Bruyere had paid two hundred dollars to get back to Havana. This family had been some time resident in Mexico, where they had made friends of all american visitors, as they did at Havana, of all who became acquainted with them. They had come to Havana, as a way to get a passage to the United States; and had been kindly offered one by Commander Babbit. It seems however, that on reaching Key-West, Commander B. discovered that his orders did not allow him to take lady-passengers. So, at least, said Havana rumor on the reappearance of these Boston passengers; as the Consul was in-=formed by the numerous enquirers in quest of a sufficient explanation of the "Scandalous trick to serve such respec-=table people."

A fairer indication of the general state of things connected with the Boston could not well be afforded than the above incident.

Other incid=ent, & question presented by it.

Associated with it is another, which sug-=gests the question, how far the taking of private individ-=uals away from foreign countries in defiance of the laws of those countries, is a legitimate occupation for national vessels. That it affords a cheap mode of dis-=playing the Commander's patriotic devotion to his fellow citizens, and thereby earning laurels of news-=paper

= paper puff, is not to open to question.

Durnford's
le.

Among the visitors at Havana from the U. States last winter, was a German adopted citizen, named Hader= =mann, who, without knowing the Spanish language, had left a situation affording a support at New Orleans, in the hope of doing better by delivering lectures (!) at Havana. This gentleman, after producing to the American Consul testimonials of high respectability, proposed to him to cash a draft for $50 on a Baltimore relation of his (H's) wife. The Consul, however, having become satisfied, although too late, that nothing short of Fortunatus's Purse would suffice to answer these calls, had the firmness to decline taking the proposed draft. It did not however hold out against the entreaty for a loan of $10, which would enable Mr. H. to get away from the boarding house where he had imprudently put up, in order to go to a cheaper one. — This removal took place; and at the departure of the Boston, Mr H. must have been living several weeks at his cheap home; where, 'tis next to certain that he must have owed the poor people for several weeks board and washing. He is said to have gone in the Boston. If so, it can scarcely be supposed that he deemed it requisite to go through the formalities established by the laws of the coun= =try: for the purpose especially of protecting creditors

against

against the clandestine departure of those indebted to them; and which formalities being neglected (they are all connected with, and end in, the taking out of a passport) the vessel carrying away the individual becomes liable.

Other case: Col. Baldwin of Florida.

That Commander B entertained no scruple on the subject, and deemed such formalities altogether unworthy of regard from any "patriotic" American citizen, had been shewn some weeks before in the case of Col. Baldwin of Florida, a friend of Gov. Call and member of his staff. Col. B. had, in consequence of the robbery of his effects, become involved in some very vexatious legal proceedings, in the course of which he had been judicially informed that he must remain in the Island until they were decided. The case, and this as part of it, was a general subject of conversation among the Americans in the place; not one of whom probably, including Commander B., but knew all about it. On Saturday afternoon, February 16th, between 4 and 5 o'clock, as the Consul was leaving his office to go home to his dinner, he met Col. B., who was coming to ask his advice about accepting an offer of a passage from Commander B, who was to sail next morning.— After showing his disposition "to truckle" to the Spanish authorities, by taking every step which could at that late hour be taken for obtaining their consent to the

departure

departure of Col: B. (which steps resulted in his failing to find a single one of the officers with whom it was necessary to communicate,) the Consul displayed his truckling disposition still further by advising Col: B. not to go in the Boston, which advice was followed.

Character of Com: B.'s communications & conduct.

With such incidents as these, occurring simultaneously with the communications from Commander B. to the Consul, those communications and the rest of his deportment towards him cease to afford any cause for surprise; and they may be left to speak for themselves, without the comments for which at every line, they afford room. Of the last of these productions, particularly, the true character is stamped upon its face, as an altogether forced and artificial compound, written, not to but at the Consul, evincing throughout the writer's utter destitution, equally of any true starting point or of any definite purpose, save only that of fabricating for the press something, any thing, which might call off from himself that scrutiny from his Country's eye, of which the anticipation of a guilty conscience already made him feel the scorching. And a most miserable abortion it has proved, - worthy in every respect of its parentage. The wretched writer and his assistants will learn, that whatever temporary advantage may be gained by preoccupying the Public Ear with falsehood, it is not by such miserable Maw-Worm declamation

declamation, "honor of sustaining the flag of the country," "proud appellation of an American citizen", "repel at all and every hazard the slightest intentional insult offered to my national flag or the oppressions of our citizens," as form the staple of their fabric, that the American People can be imposed upon.

Case of Purser Southall

Inasmuch as Commander B has interwoven, or jumbled, the affair of Purser Southall with the other matters shaken together in this last scrap-bag of his, the Consul will here give a succinct statement of the case, (the only intelligible one he has heard) as obtained verbally from Colonel Cristoval Zurita the Mayor de Plaza, upon whom, — — — — , it de= =volved to form the Sumaria in the case, — that is, to conduct the examination of the witnesses and the reducing of their testimony to writing.

The Consul was desirous of obtaining an entire copy of the expediente, embracing all the testimony and every step in the proceedings. This, however, although the Capt.n General expressed a strong desire to do so, could not be furnished here without a breach of rules which it was deemed dan= =gerous to break through. He therefore felt himself under the necessity of referring to the Supreme Govern= =ment at Madrid, by whom, he had no doubt, a copy

of

of the whole proceeding would be furnished on application from the government of the United States.

Before entering upon the Statement of the case, the Consul will refer to the letters (and their translations) from the Captain General, under dates the 19th of March & 8th of April, both received on the latter date (~~Doc 12, Doc 13, and Doc 14,~~ 12, 13 and 14.).

documents referred to.

Sub-enclosures 90

The first of these is a letter from the Capt. General, to the Consul, embodying the opinion of the Auditor of War, by law the authoritative adviser of the Captain General in regard to all matters the cognizance whereof belongs to the latter in his capacity of Judge of the Tribunal Militar.

The second is a letter from the Captain General to the Consul, embodying a letter addressed by him to the Commander of the U. S. Sloop of War Boston, and also enclosing copies of two documents, copies whereof had accompanied the letter to the Commander of the Boston.

The third consists of the two Documents just mentioned; which are, 1st The opinion of the Auditor of War upon the "petition" addressed to the Captain General by the Commander of the Boston, asking a copy of the proceedings in the case of the Purser of the Boston; 2nd The report made to the

Captain

Captain General by Don Cristoval Zurita, the Mayor de Plaza, who had been charged by the Captain General with the enquiry into the facts of the case.

Preparatory explanation.

As prefatory to the statement obtained from Colonel Zurita, the Consul will also here refer to the letter addressed by himself to Commander Babbit on the 6th of February 1839 (Sub-enclosure No. 7) (Doc. J.) — In that letter, mention is made of the conversation which had occurred between the Consul and the Captain General, wherein the latter is stated to have observed, that an attempt had been made to force the post of the Sentry. Now, as no attempt was made, literally to force the post, it is necessary, 1st to state here, that the remark really made by the Captain General was misconceived by the Consul, and 2d. to explain how it came to be so.

The expression used by the Captain General was, that an attempt had been made to force the consigna of the Sentry. Now, consigna is a Spanish military term, of very comprehensive import, to which we have no equivalent. It means any and every thing that is consigned or entrusted to a sentinel. If his orders be solely not to let any one pass, or cross the line on which he is posted, then, to prevent this constitutes his consigna; and to force his consigna means nothing else than to force his post. If, on the

the other hand, he be also charged not to permit any one to stop at a particular spot, then to persist in stopping there is to force, or do violence to, his consigna.

To this general term, as used by the Captain General, the Consul was led to attach in this instance the special meaning of forcing the post, in consequence of his mind's being preoccupied with the account of the affair, originating with Mr. Sturgis, the companion of Purser Southall, and also, the Consul believes, with the Purser himself, which was going the rounds among the Americans at Havana. This account, which was made the basis of the Consul's letter to the Captain General, (Sub-enclosure No. 8.) ~~(Doc. 8.)~~ represented the carriage of Messrs. Southall and Sturgis to have been stopped by the Sentry; and this, too, notwithstanding its being the last of the file of carriages conveying the party: a circumstance which, to the Consul's mind, rendered the Sentry's conduct inexplicable, except on the supposition that he had been guilty of remissness in allowing the others to pass, and being enraged thereat and probably too at some threat of punishment for his carelessness, his rage had been expended upon this carriage. — It will be seen that the origin of the affair was just the reverse of this: consisting as it did in the circumstance, that the carriage stopped

at

at a spot where the Sentry had orders not to allow any carriage to stop. –

Colonel Zurita: his rank & standing.

The Statement of Colonel Zurita will now be given: premising that he is an officer of high standing, who holds, under the appointment of General Tacon, confirmed by the government at Madrid, one of the most important posts in the staff, which makes him the second man in rank from the Captain General himself, as Governor of Havana, (the Teniente Rey being the only intervening officer) and entrusts him with powers and responsibilities, the most delicate and arduous. This officer was selected by the Capt.n General, as one upon whose experience, sagacity and firmness he could implicitly rely for the search-ing and unsparing scrutiny into the truth of the matter, which was particularly requisite in conse-quence of the Captain General's determination (as the Consul learnt from Colonel Zurita,) that, if the Soldier had really committed a wanton assault, he should be shot.

(Sub-enclosure No. 15)

Sketch of the spot where Pur-ser Southall's case occurred.

The accompanying sketch (No 15.) will afford an idea of the ground where the occurrence took place. The Teatro Tacon, as will be perceived, occupies one of the four corners formed by the cross-ing of two streets or highways; the broader of

which

which, parallel to the city walls, is an Alameda or promenade, on which the theatre fronts; and the narrower is a common road or street leading from the City Gate past the side of the theatre. Among the Sentries which, agreeably to invariable usage on the occasion of a public exhibition of any kind, were posted in the vicinity of the theatre to preserve order, was one at S in front of the theatre, on the opposite side of the Alameda, whose orders were to keep the passage free in both streets, by not allowing any carriage to stop in either within the square of crossing.

Statement of occurrence. This Sentry, seeing a volante which was on its way from the city Gate to the Theatre, stop at V, so as to obstruct the way up and down the Alameda, hailed the driver and ordered him to proceed, and not block up the road to other carriages. To this order, the persons in the volante seemed to set themselves in opposition: one of them (Mr. Sturgis) crying out "para, para", that is, giving to the driver in Spanish the counter-order, to stop where he was. — Finding his repeated order disregarded, the Sentry (a lancer) enforced it by giving two blows with the but end of his lance to the driver, who cried out that it was not his fault, but

that

that of the two gentlemen in the volante, who in-
=sisted on his not proceeding. Thereupon, the two
passengers, very much excited and using very angry
language, (which the witnesses did not understand)
got out of the volante, the purser on the left side,
next to the lancer, and Mr. Sturgis on the oppo-
=site side. The tallest, dressed in a frock coat
and cap, (the purser) faced the lancer and threat-
=ened him with a whalebone stick which he
carried; whilst his companion, coming round behind
the volante to the side of the lancer's horse, laid
hand upon the lance at its but end. At this
instant, the soldier seeing that not only his con-
=signe (orders) were violated, but that he was
about to be disarmed and assaulted, jerking his
lance from the hand of Mr. Sturgis, cried out
"from me, nobody takes my lance", and, couching
it, gave sundry thrusts, in the course of which
the Purser received two slight wounds, one on the
left side of his neck, the other on the back of his
left hand.

Such is the account given to the Consul
by Colonel Zurita. Upon enquiring of him whether the
declarations of the witnesses contain any thing in re-
=gard to the Purser being heated with liquor, Colonel
Zurita

Question from the Consul to Col: Z. & his reply.

Zurita has stated yes, that several of the witnesses re-
=presented him as intoxicated, as will be found in their
depositions; although, through delicacy to our flag he had
in his report omitted to mention this circumstance.

It will be perceived that the foregoing state-
=ment accords in one very material point, tourit: the
raising of the cane at or towards the lancer, with
that received from the lips of Mr. Sturgis by the
Consul. From the number of persons he has heard
repeat it, as heard from Mr S, the Consul doubts
not but Mr. S. must have related it at different
times to at least a dozen persons at Havana.
And yet, upon enquiry of the interpreter, the Con-
=sul is now informed that the deposition given by
Mr. Sturgis accorded with that of the Purser, who
represented himself as having crossed his arms
on his chest!

In accordance with this state-ment made the Consul thus by Mr. Sturgis.

The Consul was informed by the Captn. General, that in consequence of his letter of the 6th of February, (Sub-enclosure No. 8.) ~~(Doc. 8.)~~ a reexamination of witnesses took place, particularly of those referred to by the Purser; which resulted in new confirmation of the untruth of the representations on which that letter was bottomed.

This account of the case of Purser Southall will

at the examination of Passer Smallve.

will be closed with the following incident connected therewith:

Owing to the tardiness of Commander Babbit's communication to the Captain General, the proceedings of enquiry which Colonel Zurita was, in consequence, ordered to conduct did not commence until the ~~Sixth~~ Seventh day after the occurrence.

On that day, about meridian, the Consul on reaching his office was informed of a message from the Captain General, requesting his attendance at the Government-House. On repairing thither, the Consul found the following state of things: The Purser and Surgeon of the Boston and Mr. Sturgis had, in compliance with an invitation to that effect, presented themselves at the Government House, where they found Colonel Zurita with the interpreter &c and two members of the medical faculty of the city, ready to enter upon the case. The first step in the proceedings, as prescribed by Spanish Law, consisted in the examination of the wounds of the Purser, by two physicians of the country, and the writing down of the result. Informed of this, the Purser had (as the Consul learnt) demurred to having his wounds examined or reported upon by any other than the Surgeon of the Ship: because he considered him to

be

be the proper person; and also to giving his deposi-
-tion except in the presence of the Consul of the United
States. — Upon this ground, the court and the two physi-
-cians had been kept waiting, for an hour or two, the
Consul believes. — Colonel Zurita having repeated to
the Consul the assurance which had been proffered to
the Purser through the interpreter, that, although he
had no objection to receive the report of the surgeon
of the Boston and attach it to the proceedings, yet
the examination for which the two Spanish physicians
were in attendance was an indispensable legal requi-
-site; and further that their laws would not permit
the attendance of the Consul at the taking of the
testimony, — the Consul informed the Purser of this,
suggested the propriety of his not persisting in
dictating the mode of proceeding, and, that the
courtesy displayed by the court and professional men sum-
-moned by it, in good humoredly submitting to this delay,
might not be longer taxed, withdrew. He was aware
that, no doubt, according to the Pursers standard of "pa-
-triotism," he would prove recreant thereto by pursuing
any other course than that of insisting on the right to
dictate what was proper and what improper to be
done on the occasion, without regard to any such tri-
-vial pretext as the necessity of proceeding, in a case

involving

involving perhaps the life of the sentinel, in the mode prescribed by the laws of the country. But this was an imputation the necessity of subjecting himself to which seemed inevitable, and therefore to be submitted to.

As illustrative of the spirit in which this business was conducted by the Captain General and Colonel Zurita, it is proper that it should be known, that the two physicians summoned on this occasion were Don Francisco Alonzo y Fernandez and Don Ramon de los Santos: the first at the head of the medical staff of the Army, and so distinguished as to be an honorary member of three of the societies of Medicine and Surgery of our country, — Philadelphia, New York and New Orleans; the second, a city practitioner of medicine and surgery, of high standing. —

Levana Conductate N°. 84 Enclosure N°. 1

(Documents)

Havana Consulate No. 84. Enclosure No. 7.

(Documents.)

Havana Consulate No. 84. (Doc. 1.) Enclosure No. 7
Sub-Enclosure No. 1.

Dec 10th 38 Received at half past 9 o'clock

U. S. Ship Boston
Havana December 9th 1838.

Sir.

I herewith have the honour to enclose you several communications from Masters and Seamen of Vessels belonging to the United States, who are now imprisoned at this place.

I will thank you to give me any information respecting the Circumstances of their several Statements.

Respectfully —
Your Obt Servt,
Edw'd Babbit
Commander U. S. Navy
Ship Boston.

To
N. P. Trist, Esquire.
U. S. Consul
Havana.

[In sub-enclosure No. 1]

~~Copy~~

Punta Prison
5th December 1828

To the Commander of the
U. S. Ship Boston
at Havana. —

The copyist will make the under-scorings in black ink.

Sir.

Having heard that you were in Port, I take the liberty to make my case known to you, relying that you will investigate the affair, & therefore throw myself upon your protection, —

I have now Sir been nearly five months in Prison, at the instigation of the U. S. Consul for refusing to pay my first Officer three months extra Wages, he having deserted twice, the Brig Hemlins then under my command, - once in Malanzas, whence he came to join her by Steam Boat, & afterwards at this anchorage. —

The Consul it seems has endeavoured to bring a charge of a different nature against me, since I have been incarcerated, & as I have been informed, has denied that he put me here; alledging that the Spanish authorities had done it. —

I have to refer to Jerd.h Clark, Esq. Sr Blumstead - Col Troup & others as to my conduct in Havana to Capt Mowery of Ship Wm Francis, Mr. Fleming, Etc. as regards to that of the mate, particularly since he has been retained by the Consul to help him; I may say in this lawless persecution against an old Ship Master, well known all over the world; with a large family in the city of New York, now in the greatest distress on account of his absence.

I further beg leave to add, that the Consul availed himself of my ignorance of the Spanish Language, Making it appear, as if I had resisted, the orders of the Capt Gen.l that the

The underscorings in this letter made by R.P.T.

Matter might be aggravated, as unfortunate for me it has happened;

Malice and a vindicative feeling have accompanied the Consul as I shall be able to prove in due time;

In the mean while I beg your kind and respectable interference with the Chief Authorities, in order I may be set at liberty, & to be able to put to right my innocence; when it is impossible for me to do whilst I am suffering this cruel & hard imprisonment.

I have the honor
to remain your
Obt Servant
(Signd) N. Mendell. Jr.

Copy of

Capt Rendell

Letter

[In Sub-enclosure No. 1.]

Copy

Havana San Juan de Dios Hospital Prison
Decr the 6th 1838.

To the Commander of the Am^n Ship of War Boston.
Havana.

Sir

I arrived at this Port on Sunday 4th August ult^o from Boston, Commander of the American Brig "Sarah Ann Alley, with a Cargo to different Consignees, amongst which was 369 Spanish Stuboons on Monday the 5th of of August aforesaid, I made my entry at the Custom House & went on board of my vessel, & found my trunk had been robbed of $293. part of my clothes & I supposed the said 369 Stuboons were also taken, & went on shore & reported the same to my Consignees & the authorities, & made my protest accordingly: sometime after which I found the 269 Stuboons in an other trunk & being mortified at the occurence of the discovery & inadvertance, I omitted to mention it to my consignees & kept it on board with the knowledge of the Mate & Cook intending just as I was about leaving Port to deliver it to the proper Consignee: but whilst I was under charge of Dr Blumstead sick on shore my Mate Mr Borden now the Commander of the said Brig came on shore & reported to the authorities that I had the 369 Stuboons still on board of my vessel; which occasioned the authorities arresting & carrying me on board for the purpose of taking the money; after taking 335 Stuboons my trunk, desk & cot; they brought me here & afterwards imprisoned me at the Punta; & yesterday I was attacked with a violent fever, when they removed me here, & being a stranger & destitute of friends & means I applied to the U.S Consul for assistance in my defence; but as he supposed I was convicted & condemned, he refused any aid to me; afterwards I wrote him there had been no trial in my case & begged he would protect me, & the enclosed is his categorical & unfeeling reply, which conduct can only be ascribed to the want of a sense of amiability & proper regard & esteem, for his unfortunate countryman. If I have been so unfortunate as to fall into the hands of strangers charged with wrong friendless penurious, without a knowledge of the language; am I to be abandoned by the representation of my country & left at the mercy of those who will dispose of me as they fancy & dictate, even tho I suppose I had done

The underscorings in this letter made by the writer.

strong intentionally; am I to be abandoned without a friend to defend my lawful right. —

If I did not deliver the money after I found it, it was my intention to deliver it as I have stated, the Laws of my Country would not treat me as a criminal even tho, I had never delivered the money but a civil process against me would been the consequence. —

No sentence has yet been pronounced in my case & I throw myself on your hands, & as the affair took place under the American Flag I desire you will request the Secretary General to deliver me up to your authority, to be carried to the U.S. where I may be examined, & if I am wrong Heaven knows I am not, but nevertheless I am willing to suffer trial of the consequences, by a jury Court, if I am compelled to submit to the dictates of the Caudillo de Guerras judgement here, without the means of defending myself I apprehend my fate will be doubtful, I am a native of Saco Maine & married there & feel it my duty to use all lawful means of obtaining my liberty, in order by my labour, to maintain my family & aged mother, I can produce abundance of testimony in my favour regarding my moral character, & upright habits all the world that will speak the truth, can testify, that I have been industrious, charitable, & honourable, from my infancy & I am thus advanced to middle age, connected in one of the most respectable families & to be abandoned by the community & suffer condemnation to prison, for life, alledged simply with an intention to do wrong. I hope Sir that your generosity & sense of duty to an affected & penitant countryman; will avoid at the unmerciful & insignificant reply of the U.S. Consul, at first, in his laconic communication of the first inst: in which he concludes by saying, in these words "You are giving yourself needless trouble in writing to me". I would ask Sir if I were a convicted & notorious Criminal in the U.S. & incarcerated & had no means of defending myself; & applied to the proper authority for help & protection would it be human or according to the spirit of our institutions to sneer & scoff at my helpless & humble supplications; I reply no Sir; but Sympathy would be responded & the honorable judge & jury would glory in helping as long as there was the

(slightest

slightest shadow of hope, of proving innocence; perhaps Sir, the U.S. Consul thinks himself barely protected in his reply, in consequence of my having signified to him that I considered it a crime, to hold the Money or freight a few days, & fortifies his intentions & clear his behaviour in the estimation of the public; - but Sir this is but a pitiful excuse for his inferious neglect of his heighly duties, & I beg Sir that you will request his excellency the Capt. General, of this Metropoli to deliver me to your charge to be delivered in to the hands of the proper authorities in the U. S, where I can arange my affairs & indemnify my owner for the loss he sustained in this affair; by the Civil Law Suit & detention of his vessel. the whole of the 26 Doubloons has been delivered, & the cost of the Civil Court paid, therefore there is no claim against me whatever in this realm & I could soon satisfy all at home were I to go there again, asking your generous intercession in my behalf & praying ever to almighty God to save me from the intended destiny of the Authorities here. =

I am Sir your afflicted
& humble obt Servant
(Sign.) José Sirau -

[In Sub-enclosure No. 1.]

The copyist will make the underscorings in blackink.

Havanah, 4th Dec. 1828.

Sir.

We take the liberty of writing to you, to let you know the distressed state that we are left in, we are 6 of the crew that came here in the Ship William Cags of Newport we shipped in her in Liverpool but signed no articles, our agreement was to call at Havana and to Neworleans and to be paid off; after we had been sometime in harbour we were told by the Mate that the Ship was going to St= Petersburgh, we told the Capt.n that we wished to have our discharge here, as the Ship was not going according to our agreement, and that we had not signed no articles, he said he would make us pay our passage and ordered the mates not to allow any boats alongside, and he would not allow us on shore on a Sunday to see the Consul, and we had nothing but the worst of treatment, both on the passage and in port; and on the 9th of July the Ship had part of her cargo in, we told him that we wanted to see the Consul before we did any more duty; when he came on deck he called us afs.t and seized hold of one of us to siege him up to flogg him, and brought Pistols and Cuttapes on deck, and called the Capt of the Guatimela Packet on board with Pistols to their assis= tance, the rest of the crew were all on the Forecastle, until the man called for us to save his life, we went aft and begged him not to ill use him. he then struck two of us with the Pistol and cut us very ill we went forward, he then sent for Soldiers and sent us to Prison, where we kept until the 29th of August, they then sent for two Years to the chain Gang and one of us for four when we have been kept destitute of clothes; except a Shirt & Trowsers we had on when we came on shore; = until 10 days ago Mr Ware brought us Part of our clothes quite useless and what was of any use; he gave a little Mo= ney to get something to eat. which we were very much in want of, for we were almost famished with hunger-

Note. The underscorings in this letter made by N. P. T.

If your Honour will be kind enough to let an officer come to see us We will be for ever thankful to you, there are 3 others who are past here for six Years, because they had their knives in their Sheaths on shore; were taken up and sent here; their Ships have taken their clothes with them, and left them destitute of clothes, except the Shirt and Trowsers they had on when taken up. If you will take us out of this place, we will enter for the — Service, if we would be accepted; if you will relieve us We will for ever pray—

We remain your Humble
— Petitioners —

John Taylor —
Isaac Clark —
" Nicholas Nelson
" John McKenzie
" John Broadfoot
" Pat Burnett
" Las Stevens
" William Johnson
" George Williams —

Havana Consulate No. 84 — Enclosure No. 7

Document 2. — Sub-enclosure No. 2.

Consulate of the United States of America

Havana, December 10th 1838.

Edwd B. Babbit Esqre

Commanding U. S. S. Boston

Sir,

I have the honor to acknowledge the receipt today, of your favor of yesterday's date, enclosing copies of three communications from Captn A. Wendell Jr., Captain Love Straw, and certain seamen of the Ship Wm Engs, and Schooner Henry Clay.

In regard to the two former, they have already taken up so much of my time that it is impossible for me to bestow any upon them on the present occasion further than to assure you that nothing that they can utter is deserving of the least credence. At the head of the list of persons referred to by Captn Wendell is the name of a merchant, the most dirty and sneaking knave known to me by reputation in all Havana; the second, Dr. Bumstead, is a bosom friend of the first; and a character of the deepest infamy; and the third is, according to all appearances, a con-

-genial

(9.)

genial spirit with the other two. This being the case, it is due that his name which seems to have been misspelled by Captn W. should be correctly given. — It is not Troup, but, Throop: Oramel H. Throop, once of New York, the nephew of a respectable man, now chargé of the U.S. at Naples, and very probably also the son of respectable parents.

In regard to the seamen, the case is different. Those of the Wm Engs were arrested by the Authorities of the place, at a call from their Captain; prosecuted for mutiny, convicted and condemned. As to the fact of the mutiny, or conflict on board the Ship, there can be no doubt. With regard to its origin, the story told by them is, I am sorry to say, but too probable on the face of it; judging from my experience of such matters. — If true, the Captain ought to be now engaged in cracking stones in their stead. Upon becoming aware of their account of the affair, which was not until after their condemnation, my belief in its probability led me to take steps in their behalf which will, I hope, be attended before long with a favorable result.

The case of the three men arrested, tried and convicted for wearing pointed knives on shore, is a melancholy, but altogether unavoidable, instance

of

of the rigor of law. — The rigid execution of the law against wearing pointed knives was the chief means by which General Tacon established absolute and perfect security of person here, in the place of the murders which were of daily - almost hourly - occurrence. These men have come under the law, as numberless others have done; and they are now suffering the penalty. It is a severe one, however; and their case has received and will continue to receive my attention. Had the circumstances been such as to afford any possibility that your cooperation with me could be of any avail, it would have been called for.

I am Sir very respectfully

Your Obed.t Serv.t

N. P. Trist.

Brought to the Consulate between 4 & 5 o'clock, Jan: 11. '39
rec'd Jan: 12. 39

U. S. Sloop of War Boston,
Havana Jany 11th 1839.

Sir.

I have the honor to acknowledge the receipt of your communication of the 10th Inst. last. = It being left with a Grocer. = I did not receive it until the morning of my leaving this port.

The object of my communication respecting the imprisonment of Masters and Seamen of Vessels, under the Flag of the U. States. = was, to obtain information, as to the crimes they had committed. =

As regards the Seamen belon= =ging to the Ocm Engs. I observe by your statement that is a case of Mutiny. =

I have therefore to offer a Passage for the Seamen belonging to the U. States; = who may have been guilty of a crime of so serious a nature. = I believe in such cases they are amenable to the Laws of the U. States; and have to hope, you may represent their case to his Excellency, the Capt General, and if possible to have them sent to the U. States; where they may receive due justice and punishment, from the tribunals of their Country. =

In respect to the last observa= =tion in your communication, "that if any coop= =eration of mine; could be of any avail it would have been called for". = I merely have to observe that the Commanders of Ships of War of the U. States, are sent to the diff= =erent Foreign Ports, for the protection of our Commercial interests, and the citizens of the U. States; and in whatever Port I may anchor the Ships under my command. =

Note. The underscorings in this letter made by the writer.

I shall at all times hear the complaints of my countrymen;= and use all my endeavours to have justice done them; without being called upon by the U. S. Consul for my interference.

I shall leave here tomorrow or next day for Pensacola; any communications you may have for the Commander of the U. S. Forces, on this Station; I shall be happy to take charge of. (Illegible)

I have the honor to be,
Respectfully Your Obt. Servt.

Edwd. M. Babbit
Lt. Commander

To
N. P. Trist, Esqr.,
U. S. Consul
Havana.

Havana Consulate No. 84. { Enclosure No. 7. / Sub-enclosure No. 4.

(Doc. 4.)

Consulate of the United States of America
Havana, January 12th 1839.

Sir,

I have the honor to acknowledge the receipt of your favor of the 11th inst, which, in consequence of its having been left at the rooms occupied as my Consulate, subsequently to my departure from them upwards of an hour after the close of office-hours, did not come to hand until to-day.

I regret that the urgency of the demands upon my time should be such as barely to allow me to snatch enough from them to make this acknowledgment of the receipt of your letter, without entering into the explanations which I should otherwise offer in reply to such parts of it as call for them.

Thanking you, for the offer to take charge of any communications I might have (I have none) for the Commander of the U. S. forces on this Station,

I am Sir very respectfully
Your Obt. Servt.
N. P. Trist.

Edward. B. Babbit Esqr.
Commanding U. S. S. Boston.

Havana Consulate No. 84.

Enclosure No. 7.

(Doc. 5)

Jan 17. 39
brought to the office at 6 P.M.
on the 16th

Sub-enclosure No. 5.

U. S. Sloop of War Boston,
Havana Janry. 15th. 1839.

Sir.

I have the honour to acknowledge the receipt of your communication of the 12th Inst. - & regret that your pressure of business is so great, as to prevent an explanation respecting the case of American Seamen, now confined here, for mutinous conduct on board of, and under the Flag of the U. States.

Such offences committed under our flag, are only cognizable to the Courts of our own government, & I have still to hope, you may use your influence to have them sent to the U. States, for a trial, - that they may receive the punishment due, to their crimes.

I have the honour to be,
Very Respectfully - Sir,
Your Obt. Servt.

Edw'd B Babbit
Commander U. S. Navy,
U. S. Ship Boston.

To
N. P. Trist, Esquire.
U. S. Consul
Havana.

Havana Consulate No. 84 Dec. 6 Enclosure No. 7.
Sub-enclosure No. 6.

No. 1

Rec'd Feb. 6th 1839
Brought to the office 20 minutes to 12.

U. S. Sloop of War Boston
Havana Harbour 5th Febr 1839

Sir,

Herewith you will receive the Copy of a Communication, which I have this day addressed to his Excellency the Captain General of Cuba, enclosing a report from P. A. Southall, Purser of this Ship, stating that he has been, without any provocation upon his part, attacked & wounded in the neck & hand by one of the Dragoon Guard of the Government, on the 2d Instant.

I have therefore to request, that you will, in your Official Capacity, as Consul of the U. States, use all means in your power with the proper Authorities here, to bring to speedy punishment the Offender of this lawless & outrageous attack, upon an Officer of the U. States Government & that an example may be made in the present instance, which in future, will prevent a like occurrence & insult being perpetrated & afford to our Officers & Citizens in general, that respect & protection, which they have a right to demand—

I am, Sir
Very Respectfully
Your Obt. Servt.
Edw B Babbit
Commander

To
A. P. Field Esqr.
U. S. Consul
at Havana

No. 10

[In Sub-enclosure No. 6.]

No. 6.

U.S. Ship Boston
Havana Feby 3d 1839.

Sir

I am under the necessity of reporting to you a circumstance of a disagreeable nature which transpired with regard to myself, last night, that I may through your hands seek that redress which the aggravated circumstances of the case require.

On leaving the ship last evening in company with some of the officers and the gentlemen who had dined with us, I proceeded to the "Theatre Tacon" — Mr Sturges and I being in a volante and preceded by the rest of the company a little in advance also in volantes, — when only a short distance outside of the walls, for some cause I know not what the volante in which we were was stopped by one of the mounted guards and not allowed to proceed even after being told by Mr Sturges, that it was our wish to visit the Theatre, — we were nevertheless ordered back, getting out of the volante, I discharged the Gard; whereupon, without any altercation or provocation on my part the guard charged upon and endeavoured to ride over me, at the same time wounding me in the neck by a thrust from a lance with which he was armed, and which was repeated again, injuring me in the hand in a manner sufficient to counteract the use of the member, at least for a time; and this too after I had informed him that I was

an American Officer, which my uniform sufficiently indicated, - I could make no resistance being unarmed and defenceless, My situation created much excitement among the crowd which it attracted, and upon whose interference the Guard desisted and withdrew - I proceeded shortly afterwards to the Theatre where I joined my friends who had been admitted without difficulty. - the circumstance having reached the ears of the Lieut Governor who was at the Theatre, he thereupon sent for me and requested a statement of the affair, that it might be enquired into, assuring me that every satisfaction should be rendered me. -

I have only to add further that Mr Sturges witnessed the whole transaction and is prepared to add his evidence to my statement, also to give you the names of three gentlemen residents of the city who were present and who kindly visited me to day, for the purpose of handing in their names as witnesses in my favour viz Jose Pimentel - Man[el] de Arruda & Pedro Gordillo

I have felt it my duty Sir, to make this report as much for the principle embraced in the insults thus offered to an American Officer, as for my own private feelings Your own judgement will indicate the course to be pursued -

Very Respectfully
Your Obt Servt
Signed - Peyton A Southall
Purser

To
Edw[d] B. Babbit Esq[r]
Commanding U.S.S. Boston

[In Sub-enclosure No. 6.]

U.S. Sloop of War Boston
Harbour of Havanna Feby 4th 39

To
His Excellency the Capt General
& Govr of the Island of Cuba &c &c &c

Most Excellent Sir

I have the honor to enclose a statement from an officer of the U.S. Ship under my command, complaining of a vi-olent and wanton assault made upon him by a dragoon near the Tacon theatre which nearly deprived said officer of life, a thrust from a lance passing through his neck and cloathes, which wound is doubt-ful of its termination, together with another thrust from the same dragoon which wounded him severely in the hand- the Officer named several persons be-longing to your Excellency's Government who were present when the occurrences took place. I have to hope that your Excellency may be pleased to have an investigation of the affair and that due justice may be done upon the offenders who committed this lawless attack, without any provocation upon an officer of the United States Government

I have the honour to be
with the highest consideration
Your Excellency's
Most Obt Servt
Edwd B. Babbit
Commander

Havana Consulate No. 84 — Enclosure No. 7.

(Doc. 77) — Sub-enclosure No. 7.

Consulate of the United States of America

Havana. February 6th 1839.

To Edward B. Babbit Espr.

Commanding U. S. S. Boston,

Sir,

I have to acknowledge the receipt, a few minutes ago, (it being now meridian) of your letter under date of yesterday, enclosing a copy of that addressed by you to His Excellency the Captain General on the subject of the outrage committed on the night of the second inst. upon the person of Mr. Southall, the Purser of the Ship under your command.

This letter happened to be delivered at my office just as I entered it upon my return from a visit to H. E., during which I had been informed, with reference to the communication received by him from you, that he had ordered an enquiry into the matter; which order I had already been apprised of by H. E. yesterday, about the middle of the day, previously to his receiving your communica
=tion.

On that occasion, as I was about to retire

(13.)

after

after concluding the business upon which I had called upon him, the subject was introduced by H. E. with the remark, that an incident had occurred a few evenings ago, which might have been attended with consequences of the most se=rious nature; and, although these had not occur=red, yet the matter was in itself so grave a one as to make it impossible for him to allow it to pass off in silence, and that he had consequently ordered it to be made the subject of a regular enquiry, although not with a view to any complaint on his part. It was indispensable, however, H. E. went on to say, that a more discreete course should be observed towards sentinels. A soldier put on post had no latitude whatever. Strict conformity with his instructions was the law of his very existence; and to force a sentinel, or to offer him violence, was, therefore an impossibility; and this was a truth which they had a right to expect that a <u>military</u> man, at least, would never lose sight of. He cannot be for=getful that a sentry cannot but do what he has been put on post to do; nor could those who place a man in a position of that nature be forgetful of the protection which they owe him.

Such was the import, of H. E's remarks; and upon my commencing my reply by observing that

that no official communication of the occur-
-rence had been made to me, H. C. remarked,
that this corresponded with his expectation,
which was, that the subject would not be
stirred. Resuming my reply, I stated, that
although officially in the dark on the subject,
yet I had heard an account of the matter, the
correctness of which I entertained no doubt of,
that differed totally from the version which
H. C. had received, inasmuch as it went to
show that the assault on the part of the Lancer,
was brutal and altogether unprovoked, and that
witnesses were not wanting to establish the fact.
To this, H. C. evincing much surprise, replied
that witnesses had been examined, and that they
corroborated the Soldier's statement, that an
attempt to force his post had been made and
persisted in until it had gone so far that a
stick was raised against him. That arms
were not carried to be used on trivial occa-
-sions, and the soldiery were always under the
strictest injunctions to that effect; and that,
so far as he knew, from the result of every
enquiry that had arisen on such points,
those injunctions were attended with the

desired

effect, and the utmost forbearance was shewn by the soldiery.

The receipt of your communi-cation having now put it my power to officially address H. C. on the subject, I shall lose no time in doing so. —

I am, Sir, very respectfully

Your Obed.t Serv.t

N. P. Trist.

Havana Consulate No. 84. Enclosure No. 7.

(Doc. 8.) Sub-enclosure No. 8.

Consulate of the United States of America
Havana, February 6th 1839.

Having this day received from the Commander of the United States Ship Boston, a copy of the communication addressed by him to Your Excellency, under date the 4th inst, enclosing the report made by the officer of that Ship who was wounded on the night of the 2nd by one of the lancers on guard in the vicinity of the Teatro Tacon, — I beg leave to call Your Excellency's attention to a fact, stated in that report, (the truth of which can, I feel certain, be established by the most conclusive testimony,) which is irreconcileable with the idea that the assault was, as has been alleged, rendered unavoidable by a pertinacious attempt on the part of the officer to force the post which his assailant was set to guard. Upon this point it is, if upon any, that the Lancer's justification must turn: for while it may be conceded in his favor that a sentinel is under the impossibility of allowing his post to be

forced

forced, it is equally incontrovertible that resistance to such a proceeding constitutes the only possible justification of a resort to murderous weapons, above all on an occasion like that.

The circumstance which affords the sole pretext for the allegation of an attempt to force by the guard consists in the mere taking of that road by the driver of a hired volante, of whose motions the gentlemen within the carriage had no knowledge whatever except that he was taking them to the theatre.

A party, consisting principally of officers from the American and British vessels of War now in the Harbour, having determined to visit the Theatre, took volantes for that purpose. The hindmost of the train was that occupied by the officer in question and his companion, Mr Samuel P. Sturgis of Boston, recently arrived from Mexico, charged with communications for the government of the United States, in H. B. Majesty's Ship Cornwallis. Just after passing through the gate, the order in which the carriages had set out remaining unaltered, and all the others being consequently ahead of theirs, they felt the latter suddenly stop; and upon looking out to

ascertain

ascertain the cause, perceived a lancer making very free use of his lance upon the driver and his horse: for what reason, they were at a loss to comprehend. They first endeavoured to make the lancer understand that they wished to proceed to the Teatro Jacon; but, discover=
=ing that, for some cause or other, he was requiring of the driver to return the way he came, and enforcing this order in a very brutal manner, they alighted from the volante, and the officer discharged it, paying the driver liberally through consideration for the treat=
=ment he had suffered.

This being done (which it could not have been without a pause in the storm of brutality which had so unexpectedly burst upon them) the driver was in the act of withdrawing his carriage from the prohibited ground, leaving the two gentlemen at a spot where persons without number were passing to and from the theatre, whither it was their pur=
=pose to proceed on foot.

It was at this moment, and under these circumstances, that the assault took place, with the too obvious intention to kill; which Y.E. will be disgusted to learn, was openly encouraged by a voice from the crowd, that, with bitter oaths and imprecations against "the English", called out "kill him"

him", kill him", in reply to the general cry of "shame, shame" "a stranger a stranger", by which the crowd endeavoured to bring the lancer to his senses.

The moment and the circumstances preclude the idea that the man was acting in defence of his post, or under a sense of duty in any respect. Whatever pretext might have been afforded for this, in the first instance, by the mistake of the driver in taking a prohibited road, that pretext was past and gone. Nothing remained to which the attempted butchery can be ascribed unless it be viewed as a mere outbreak of savage rage, which, not improbably, may have been excited by previous occurrences of the night, and now only burst forth. To me, upon the most dispassionate consideration of the statements from various sources, which have come to my ears, it seems but too obvious that this is the conviction to which a fair trial of the man must lead. That the subject is of a nature to demand the most thorough sifting, is a point which it would be altogether superfluous for me to press; aware as I am, from my knowledge of Your Excellency's particular views on this subject no less than your

general

general character, of the deep sense you entertain of the duty, not only to repress all disposition to outrage on the part of the soldiery, but to inculcate and enforce upon them the observance of the extreme of moderation and forbearance in the trying positions in which they are not unfrequently placed.

Of the witnesses named in the report of the wounded officer, I would ask as a favor, that the testimony of Mr. Sturgis of Boston be taken at the earliest possible moment; and I will add to them a Mr. Barthelemi, a frenchman, who, I learnt late this evening, was on the spot, accompanied by his wife, and an eye-witness of the occurrence.

I have the honor to be, with the highest consideration, Your Excellency's

Obed.t Serv.t

N. P. Trist.

His Excellency Don Joaquin de Espeleta

&c &c

Captain General

&c &c &c

Havana Consulate No. 84. Enclosure No. 7.

(Doc. 9) Sub-enclosure No. 9.

U. S. Ship Boston
Havana April 4th 1839.

Sir,

I herewith have the honour to enclose a communication from the Capt General, respecting the case of W. Southall.—

I have to request you may be pleased to demand, (a) of the Capt. General copies of the testimony given in the case; in order that I may lay them before the Govt. of the United States, to shew them the wanton outrage committed upon an officer; & the redress, which has been given for such an unprovoked attack.—

If you think better, I will address the Capt. General likewise upon the subject.

I am very Respectfully
Sir, your Obt Servt.

Edw. B. Boggs
Commander.

To
A. J. Fish Esqre
U. S. Consul
Havana.

(a) This word underscored by the writer.

Havana Consulate No. 84. Enclosure No. 7.

(Dec. 18) Sub-enclosure No. 10.

Consulate of the United States of America

Havana, April 4th 1839.

To Edwd. B. Babbit Esq

Commanding U. S. Ship Boston.

Sir,

I have the honor to acknowledge the receipt of your communication of this date, enclosing one from the Captain General respecting the case of Mr. Southall, and informing me that you "have to request you (I) may be pleased to demand of the Captain General copies of the testimony given in the case". In reply to which request I have to state, first, that the terms in which it is conveyed implying a pretension on your part to dictate the nature and the tone of the communications to be addressed by me to the Captain General, I cannot consistently with my sense of duty pass it over without noticing and repelling it. Secondly, that had you seen fit, at the outset of this business, to call for my advice and assistance they would have been cheerfully rendered; but, from the course which you have judged proper to pursue, I deem it proper and necessary now to decline

taking

taking any part whatever, whether at your dic-
tation or at your request, in your proceedings
with regard to it.

I am, Sir, very respectfully
Your Obed^{t} Servt

N. P. Trist.

U. S. Sloop of war Boston
Harbor of Havana April 11th 39

Sir.

I had the honor of receiving on the same day of its date, your letter of the 5th inst. and to which I now beg leave to reply. and at the same time to notice more particularly your proceedings in relation to the affair of the Seamen of the 9th Engs.

In taking a retrospective view of the peculiar tone, and character of your several letters - I feel constrained, under all the circumstances, to add that it is a matter of amazement, and deep concern with me, that you have been able to extract from my letters or my conduct in the business referred to; any disrespect to your official duties or any unnecessary or improper interference with your Consular prerogatives.

What I have done was dictated by the feelings of an American citizen, and by my sense of duty as an American officer - feelings which I hope may vibrate in the bosom of every one, who has the honor of sustaining the Flag of the Country, and the proud appellation of an American citizen - feelings which I would not exchange for those, which seem to have governed your official conduct wherever the wants, wishes and interests of your injured Countrymen were at stake.

I regret deeply that the circumstances connected with both grievances touching which, we have Communicated

seemed imperiously to require my action-
it appeared very clear, that the Seamen of
the "Pm Engs would have been held lon
-ger, in the most servile and oppressive
imprisonment & employment, by and
for the Government of Cuba - together
with other Citizens of the United States
but for my interposition in their behalf

It is true that in your
letter to me of the 10th Decr 1838 - ack
-nowledging the receipt of my letter of En
-quiry - you say in effect - "that on hea
-ring the Seamen's account of the affair
you were led to take such steps as
you hoped would produce a favora
-ble result" Is it possible, that it did
not occur to you, to hear the Seamens
account of the affair, before you recei
-ved my letter of enquiry - and remon
-strance? I fear it did not" - for it
appears by a communication addres
-sed by you to his Excellency - the Cap
-tain General - nor in my possession, that
so far from interfering in behalf of
the Seamen, and for procuring for
them, a hearing in their own Country,
where was the appropriate jurisdic
-tion - for a trial of the alledged
mutiny or revolt, you actually, and
to me it seems unnaturally, Solici
-ted from the Spanish Government, a
trial of your Countrymen, here, befo
a Foreign Court, by means of Strang
laws and forms - in an inquisitorial
manner, and that, in a language
they did not understand; thereby

incurring their Condemnation, and in-
flicting upon them a punishment, Cruel,
oppressive & ignominious —

6th — I shall leave it to my Government,
And to my fellow Citizens at home,
to say, whether my interference in this
respect, was not imperiously demanded,
And to determine whether there was more
patriotism or more, Cold hearted
indifference or more Calculating judg-
ment in your proceedings in the Case
in question.

As to the unfortunate affair
of Parker Southall — I feel bound to
say, that your apathy & indifference,
is Equalled only by the singular and
Contradicting Character of your Cor-
respondence — From the tenor of
your letter to me of the 6th of Feby.
it appears, that after the commission of
the outrage — you had a conversa-
tion or Communication with his Ex-
cellency the Captain General upon
the Subject in which you seem to
agree, that an officer in the Na-
val Service of the U.S. States, had
been Causelessly and wantonly at-
tacked and wounded by a Spanish
Soldier, and that you yourself did
not feel bound to take any movement
in the affair — By your letter of
the 5th inst. — because — it had not
been made the Subject of Special
Complaint to you; his Excellency
and the American Consul, ac-
cording to your account, acted

content, that the indignity and injury, must be overlooked. And you to appear Satisfied with a homily sent or made you by H. C. on the duty of Spanish Sentries — You were moreover pleased to add; that now, that I had addressed you on the Subjects — you would communicate officially upon the Subjects Two months and upwards have elapsed, during which time — I have anticipated your official communication to H. C. might have produced a result somewhat different from that which H. C. and you arrived at in the inference above referred to.

8th I am now truly disappointed — and am astounded to find — that H. C. has given you more reasons, for passing over that matter in Silence — On the 4th inst — I therefore addressed you, what I conceived to be, a respectful communication, desiring you to demand a copy of the testimony in the case, that it might be laid before the American Government for their Consideration — To my surprise & regret, I received your abrupt reply of the same date, declining to co-operate with me in procuring justice from the Spanish Government, and giving me to understand that the weight of your official influence would be thrown against your fellow Countrymen —

9th The only reason you assign for this strange and unexpected determination, is, that you were not authorized in the first instance; I can it be

possible that you are satisfied with such an excuse? If an outrage committed upon an American Citizen, by a Foreign Government near which you are a National agent and protector, comes to your Ears, are you justified in abstaining from a redress, merely because your dignity is not in the first place properly imputated by the party aggrieved? Why, Sir, permit me to ask, did it not occur to you that the original application ought to have been to you, before you received my letter of the 4th inst. and at which your dignity seems so much humiliated. On the 5th day of Feby. I addressed you on the Subject - enclosing Purser Southall's Report to me - & also a copy of my Communication with H. E. In the reply, you found no fault with my having already complained to H. E. - there was no allegation of disrespect to you, or declaration of your refusal to do your duty, because, you had not been originally consulted - I now was led to believe, that you would do all the nature of the case and your official situation would require of you, and was kept under that reasonable supposition, until the receipt of your extraordinary letter of the 4th inst. your slumbering sense of neglect & disrespect, must have been strangely awakened since the 5th day of Feb. or else, your promised

official Communication with the Govern-
ment must have been a master piece
of Diplomatic arrangement.

10.th In conclusion, allow me to assure you,
it matters not, what may have been
the tone of your highly exceptionable
letter, alluded to. it shall not deter
me from acting and feeling as Every
American should always feel and
act; Ever ready and willing under
all circumstances and in Every situa-
-tion, whether as an officer or private
Citizen - at home or in a foreign land
to lend my feeble aid in Endeavor
-ing to mitigate the sufferings of my
injured Countrymen, and to repel at
all and Every hazard the slightest
intentional insult offered to my nation
flag or the approbations of our citizens

I am - Very Respy -
Sir -
Yr. Obt. Svt.
Edwd. Babbitt
Commander U. S.
N.C.S.S. Dol

To
N. P. Trist Esqr.
U.S. Consul -
Habana.

CAPITANIA GENERAL
de la
SIEMPRE FIEL
ISLA DE CUBA

Rec.. at 7. P. M. April 8th 1839.

Habana Consulate No. 84
Enclosure No. 1
(Doc. 12.)

En la sumaria instruida en averiguacion de la ocurrencia que tubo lugar en la noche del 2 de Febrero ultimo entre Mr. Peyton A. Southall, contador de la Corbeta de Guerra de los Estados Unidos Boston y el Soldo. Fructuoso Silos que se hallaba de centinela en las inmediaciones del teatro de Tacon, me ha consultado el Sor Auditor de Guerra con fecha 12 del actual lo sig.te

„Excmo Sor = La historia del desagradable suceso que dio lugar á la formacion de este sumario se halla exacta y claramente compilada en el razonado dictamen fiscal que precede. En él se demuestran las faltas en que incurrieron los estrangeros Mr. Peyton y Mr. Samuel, desobedeciendo la orden que con repeticion les intimó un centinela en cumplim.to de su consigna, y reprochando á este con fuertes espresiones y aun amenazas que denotaban la incomodidad de que se hallaban poseidos, lo cual dio lugar al exceso que se siguió de parte del centinela, haciendo uso estemporaneo del arma que empuñaba. Si bien es cierto que debe tomarse en consideracion la notable circunstancia de ignorar dichos estrangeros el idioma del pais por cuyo motivo no comprenderian claramente la gravedad de la falta en que incurrian, tampoco puede perderse de vista que siendo Militares de los Estados Unidos, cual se titulan, no pueden ni deben ignorar el respeto q.e merece un centinela en su respectivo pais, que es el mismo que nuestra milicia le dispensa, y la de todas las Naciones cultas, y que la fuerza no

„ ral que en aquel acto representa un Soldado exige
„ imperiosamente que de todos sea obedecido, pues de
lo contrario no es la ofensa dirigida al Soldado si
no una profanacion á las armas, sin que sea su-
ficiente á disculparlos la repuesta que han alegado
de creer no fuese centinela, cuando no podia con-
fundirse con ningun otro, estando haciendo su
servicio á caballo y con arma visible. Atendiendo
al mismo tiempo á las demas razones alegadas
en el dictamen fiscal contemplo de justicia el
sobreseimiento propuesto, imponiendose al Soldado
Fructuoso Silos un mes de arresto y apercibiendole
de que en lo subcesivo se abstenga en casos semejan-
tes de hacer uso de su arma que solo está permi-
tido á un centinela en casos extraordinarios y graves,
Y respecto á los citados estrangeros que se les haga
las amonestaciones pedidas P. el consusto debido con el
fin de que se eviten en adelante repeticiones de tal
naturaleza. Escuso ocuparme y llamar la aten-
cion de V.E. sobre la comunicacion pasada P. el Sor
Consul de los Estados Unidos que ocupa el folio 37.
Muy mal informado dicho Sor del acontecim.to y
de todas las particularidades que en el intervi-
nieron, elevó su queja á una altura á que nun-
ca pudo ni puede llegar. Siendo pues una equi-
vocacion tan manifiesta, apoyada solo en el fal-
so y siniestro aviso de algun malevolo que desea-
ra interrumpir la buena armonia que existe en-
tre el pueblo Cubano y los indiv.os de la Union
Americana, será para dicho Sor un oportuno re-
„ cuerdo que le precaberá de otras capciosas denun-
„ cias. Tal es mi dictamen."

Habiendome conformado con él lo trans-
cribo á V.S. para su conocim.to y consecuente á

su oficio de 6 del citado Febrero

Dios guarde á V.S. muchos años

Habana 19 de Marzo de 1839

Joaquin de Lafuente

Sor Consul g.l de los Estados Unidos de America

CAPITANIA GENERAL
de la
SIEMPRE FIEL
ISLA DE CUBA

Habana Consulado Nº 84. Cuba Cataluña Nº 1.

(Doc. 13.)

Rec.do at 7 P.M. April 8th 1839.

Con esta fha. digo al Sr. Comand.te de la Corbeta de grra. delos Estados Unidos Boston D. Eduardo Babit lo que sigue.

„He recibido el of.o de V.S. de 4. del actual „en qe. a virtud de la referencia qe. le han he- cho varias personas de la ocurrencia entre un oficial del bugue al mando de V.S. y un Centinela apostado en el Teatro de Jacon me pide le remita un testimonio dela sumaria que se ha instruido con objeto de pre- sentarlo á su Gobierno.= No me es dable acceder a los deseos de V.S. por estar en oposi- cion con las leyes que rigen los Tribuna- les Españoles, segun expresa la Consulta qe. me ha dado el Sr. Auditor de grra. de es- ta Capit.a Mal. con vista dela citada comu- nicacion de V.S. de qe. le acompaño copia marcada con el numo. 1.o pero en la seña- lada con el numo. 2. qe. lo es del dictamen del Juez fiscal qe. entendio en dicha Causa se halla esactamente compendiada la historia „de toda ella, qe. es cuanto puedo hacer qe. a „llenar en parte los deseos de V.S. emitidos en

„ su referida comunicacion a que contesto."

Lo que transcribo á V.S. incluyendole las copias delos documentos que se citan para su conocimiento y á consecuencia de mi oficio de 19. del anterior sobre esta misma ocurrencia

Dios gue. á V.S. muchos a.s Habana 8. de Abril de 1839.

Ignacio Delgado

Sr. Consul grâl. de los Estados Unidos de America.

N.º 1.º

Exmo Sor.: La peticion que hace á V.E. el Sor. coman-
dante de la Corbeta de Guerra de los E. U. Boston
ofrece un grave inconveniente q.e impide á V.E. poder
condecender con sus deseos en los termino q.e los
propone. Las leyes q.e rigen á los Tribunales Espa-
ña no permiten la extraccion de testimonios li-
terales de las causas q.e ante ellos se sigan sino
solo para apelar el interesado q.e se sienta agra-
viado ante los Tribunales Supremos establecidos p.r
las mismas, y en los casos q.e sea admisible
dho recurso; pero no se pueden conceder p.r otros
motivos estraños ó particulares y mucho menos
p.r sugetarlos á la calificacion ó censura de
un Gob.no estrangero segun manifiesta en su
comunicacion dho Sor Comandante. La causa
formada en esta Capitania General, y á la
q.e se hace referencia se halla terminada con
la providencia q.e la justicia dicto y de ella
ha dado V.E. conocimiento al espresado Sor. co-
mandante, trasladandole la resolucion. Apo-
yandose sin embargo dicho Sor. en la vaga re-
ferencia q.e extrajudicialm.te le hicieron algunos
individuos del acontecimiento q.e motivó la for-
macion de la Causa, parece le merecen mayor
fé la escrupulosa investigacion que judicialmente

se hizo con las solemnidades, imparcialidad y pulso que las leyes demandan y la buena administracion de Justicia. Tan estraño error debe estar impulsado de alguna causa oculta con la cual hayan intentado prevenir siniestram.te su animo; mas como es dirijido dirle V. E. de tal equivocacion será tan vivamente interesado y p.r fortuna puede hacerlo facilmente sin faltar á las disposiciones legales, el Juzgador no encuentra inconveniente en q.e V. E. se sirva mandar trasladar a dho Sor Comandante copia integra del dictamen fiscal en cuyo documento se halla epilogada fielmente la historia de toda la causa, los testigos examinados, la calidad de las pruebas y la pena ó correccion pedida p.r este Ministerio q.e p.r estar arregladas a justicia fue conforme la providencia. Por este medio podrá V. E. hacer compatible el desengaño de dicho Sor sin faltar al cumplimiento de las leyes. Salvo &.
Hab.a 5. de Abril de 1839. = Como Sō = Antonio Armen
Hab.a 8. de Abril de 1839. = Hagase como se espre
en el anterior dictamen con que me conformo =
Espeleta

Es copia

Alexandro de Arana
Secretario

N 2º

Exmo Sor — Encargado P. VE. para averiguar en debida forma los verdaderos motivos que dieron margen á la ocurrencia desagradable que hubo en la noche del 2 del corriente en las inmediaciones del teatro de Tacon entre un centinela Soldado del Regimiento de Lanceros del Rey y dos individuos de los Estados Unidos hacerme una exacta aunque breve reseña de cuanto sobre el particular ha podido esclarecerse P. medio de esta actuacion Por los relatos del oficial Comandte del piquete que estaba de servicio Dn Fernando Fuero P. el del 2º Ayudante del Regto infant. de España Dn Mariano Munoz y P. el del paisano natural de Galanda Dn Pedro Hogan testigos de referencia, y principalmte por las declaraciones de los que presenciaron el acontecimto y fueron el Alferes de Caball.a Dn Manuel de Moya, Cabo de ronda Dn Candido Frutos y Dn Antonio Ponce de Leon y el Soldado de Voluntarios Alejandro Ramos que corren desde f 5. vuelta hasta la 11, consta que siendo de 1/2 á once de la indicada noche observaron que se habia parado una volante de alquiler en la esquina de la Alameda y calzada que de las puertas del Monserrate se dirige al Teatro y que el Centinela le gritaba al negro conductor de aquella que continuase su marcha y no estorbase el paso á los demas Carruages, á lo que y apesar de sus respectivas instancias parece se oponian dos estrangeros que se hallaban dentro de ella, P. lo que el centinela Fru-

Tuvo Silos corroborando lo espuesto confiere á fojas
24 que le dió al mencionado negro P.r su inovediencia
dos ocaciones con el regaton de la lanza y que este
le contesto que el no tenia la culpa y en aquellos
dos caballeros, los cuales muy acalorados se arrojaron
á tierra y con palabras enfurecidas (que los testigos no
entendieron) el mas alto vestido de levita y cachucha
y que ha resultado ser M.r Peyton A Southall contra-
dor de la Corveta de guerra de los Estados Unidos Bos-
ton anclada en este puerto hiso frente y amenazo al
centinela con un baston de ballena que tenia en la
mano mientras que su compañero de viaje M.r
Samuel P. Sturges de ejercicio comerciante, cogio de
cortado la lanza P.r el regaton ó sea estremidad, en
cuyo momento y bien el Soldado que no solo se habia fal
tado á la consigna que tenia, sino que se le trataba de de-
sarmar y atropellar, dando un empuje a vanguardia
dijo, amí nadie me quita la lanza, y enristrando la de
rigio varios golpes, resultando el precitado M.r Peyton con
dos muy leves hendas, situada la una en la region servical
lateral izquierda, y la otra en la region dorzal de la mano iz-
quierda de ninguna consecuencia pues á los seis dias se halla-
ban cicatrizadas, segun lo justifica el escrupuloso y deteni-
do reconocim.to q.e sirve de f.s 25 practicado P.r los Doctores en Me-
dicina D.n Franco Alonso y Fernandez y D.n Ramon de los San-
tos. Interrogados M.r Peyton y M.r Samuel desde fojas 27,
hasta la 30 vuelta aparece en oposicion á cuanto han
manifestado los demas testigos sobre el origen de la cue-
tion, P.r que aseguran, que dan luego como el centi-

nela mando retroceder la volante le ove decieron sin la
menor replica, que á los quince ó veinte pasos se apearon
y la despacharon despues de haber pagado al negro, así
como igualmente que á los pocos minutos llego el Sarre
no sin decirles ni una palabra, y dio á M.r Peyton sin q.
este hiciese ninguna clase de resistencia; antes al contra-
rio fué tanta su humildad y paciencia que se cruzó de
brazos y en su idioma reconvino á su agresor diciendole
que era un oficial Americano, para lo cual le enseñaba
las divisas. Hay cosas Exmo Sor, que á la verdad se opo
nen abiertam.te á la razon y al orden natural, como son
á mi modo de ver las dos declaraciones de que voy tratan
do pues no comprendo, P.r que el centinela hizo volver
hacia la puerta del Monserrate aquella sola volante
cuando todas pasaban para el teatro segun la orn
que tenia, ni menos como no hubo la menor resisten
cia de parte de M.r Peyton y su compañero, p.a que
despues de haber retrocedido á tanta distancia, fuese el
centinela, y abriendose paso p.r medio de las innumerables
personas que habian acudido, buscase directam.te á aquellos
desconocidos que en nada le habian ofendido con la muy
obia intencion de matar segun ironicam.te se ha supues-
to P.r alguno, y cuyas palabras se ven estampadas en la
traduccion del oficio que corre á fojas 37 vuelta—Los tes-
tigos nombrados P.r M.r Peyton a su favor como oculares
del acontecim.to y que al dia siguiente fueron á bordo de
la Corveta Boston movidos de curiosidad y con solo el ob-
jeto de saber el estado de la salud del herido segun
dicen ellos; son D.n Pedro Gordillo Escribiente de la

Sgento. del Egto. de esta Plaza, el caballero Cadete Dn. Manuel de Urrutia y el Soldado distinguido Dn. Jose Pimentel del Regimiento de Milicias de Inft.a de esta plaza, los que desde fojas 39. hasta la 45, declaran terminantem.te que no pueden dar razon del principio de la contienda, P.r que no la vieron, y si oyeron generalmente habia sido sobre un carruaje; pero que habiendo observado que en la calzada se reunian muchas personas, esto les llamó la atencion y acercandose á aquel punto, vieron que ya Dn. Jose Pimentel estaba hablando con un caballero y que aquel dandose á entender lo mejor que podia le decia á este, hombre no sea V. terco, retirese V. conmigo y no falte V. al centinela, que aperar de estas instancias el Contador Americano lo rehusaba con expresiones en un idioma altas y acaloradas, hasta que llegó un lancero á caballo y dirigiendose al referido contador y cachucha le dijo: Que aun no se retira V.; pues ahora sabrá V. lo que es un centinela, y enristrando la lanza le tiró un solo golpe en seguida se fué para su puesto

He aquí Exmo Sor en donde descubrimos, no solo que hubo antecedentes, de resistencia obstinada de parte de M.r Peyton, sino que tambien nos pone á la vista el campo mas espacioso para creer cuanto han declarado los primeros testigos y dudar de la veracidad é ingenuidad franca en q.e parece han incurrido aquel y su compañero M.r Samuel tal vez P.r distraccion ó P.r el acaloramiento en que se vieron durante la ocurrencia. Deseo de averiguar legalmente si en efecto hubo alguna persona que enagenada y olvidada de su deber ó estimulada P.r la multitud profiriese á gritos mordaces juramento contra los Ingleses con la palabra

de verguenza, verguenza, en respuesta a la voz gene-
ral de Matalo, matalo un Estrangero un Estran-
gero segun y conforme se ven en la traduccion ya
citada de fojas 37 vuelta, han sido examinados des-
de la 44 hasta la 50 vuelta cinco testigos de los que
precisamente se hallaron en el punto de la desave-
nencia siendo tres de ellos los nombrados p.r M.r Pey
ton á su favor, y ninguno oyó en el acto ni des
pues de aquella voces gritos, é imprecaciones con-
tra Nadie: de que se evidencia que al Sor Con-
sul de los Estados Unidos lo han engañado y
sorprendido. Dios sabe con que intento = Hacien-
do una recopilacion de todo queda mas que su-
ficientem.te demostrado, que ni bien puede decirse
que el Soldado Fructuoso Silos se ha hecho mere
cedor p.r la sola falta que cometió en el pronto uso
de su arma en aquel punto de par y de pura di-
version á ser castigado en mi opinion con la pena
Correccional de un mes de arresto en su Cuar-
tel, contados desde el dia 2 del corriente, tam-
bien es preciso conferar que particularmen-
te M.r Peyton falto denodada y temerosa-
mente, dando lugar á la precipitacion q.
se advirtió en aquel. Lo que creo convendria se
comunicase oficialmente p.r V.E al Sor Coman.te
de la Corveta Boston á fin de que haga al pre-
sitado M.r Peyton la amonestacion oportuna
para que en lo subsecivo guarde el respeto y

consideraciones debidas a los centinelas, que tanto recomiendan las leyes de todas las Naciones. Habana y Febrero 16, de 1839 = Excmo. Sor = Cristoval Zuelta

Es copia.

Alexandro de Arana
Secretario

Havana Consulate No. 84.

{Enclosure No. 7
{Sub-enclosure No. 14

[Being a translation of Sub-enclosures 12 & 13]

(Translation of No. 12.)

Captain Generaley
of the
Ever Faithful
Island of Cuba.

In the Sumaria (1) instituted to ascertain the truth of the occurrence which took place on the night of the 2nd. of February last, between Mr. Peyton A. Southall, purser of the United States Corvette Boston, and the Soldier Fructuoso Silos, who was posted as a sentinel in the neighborhood of the Tacon Theatre, the Auditor of war has, under date the 12th inst, given to me the following opinion:

"Most Excellent Sir, The history of the disagreeable occurrence which occasioned the formation of this Sumaria is accurately and clearly compiled in the foregoing Fiscal opinion. In it are shewn the faults committed by the foreigners Mr. Peyton and Mr. Samuel, disobeying the order which was repeatedly given to them by a sentinel in fulfilment of the orders under which he was posted, and assailing him with harsh language and even threats, which denoted the state in which they were

(1) This is the name given to the proceedings of enquiry as to matters of fact, such as the taking of testimony, reducing it to writing reexamination and confrontation of witnesses.

(Translation)

(The Captain General to the Consul of the U.S:)

Captain Generaley

of the

Ever Faithful

Island of Cuba.

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(1) This is the name given to the proceedings of enquiry as to matters of fact, such as the taking of testimony, reducing it to writing reexamination and confrontation of witnesses.

were, and which gave rise to the excess that followed on the part of the centinel in making a hasty use of the weapon which he held. — If it be true that consideration is due to the important circumstance that these foreigners were ignorant of the language of the country, and for that reason might be not fully aware of the gravity of the fault into which they fell, — neither can it be lost sight of, that being military officers of the United States, as they claim to be, they neither can nor ought to be ignorant of the respect due to a centinel in their own country, which is the same that he is entitled to by our military code and that of all civilized nations, and that the moral force whereof a soldier in that position is the representative imperiously requires that he be obeyed by all. If he be not, the offence committed is not against the soldier, but is a profanation offered to the power of the State represented by his arms. Nor can that be deemed a sufficient excuse which they have alleged, that they believed him not to be a centinel, when his character as such could not be mistaken, he being in the discharge of his duty on horseback, and bearing a visible weapon. — Considering also the other grounds set forth in the Fiscal opinion, the summary disposal of the case recommended therein appears to me accordant with justice, imposing upon the soldier Fructuoso Silos one month's arrest, and

warning

warning him that in future he abstain in like cases from making use of his weapon, which is allowable to a sentinel only in extraordinary and grave cases. And with regard to the said foreigners, that they be admonished as is recommended, through the proper channel, to the end that in future conduct of this nature be avoided. I abstain from commenting upon, and calling the attention of Your Excellency to, the communication from the Consul of the United States which occupies folio 37. — Very ill informed with regard to the occurrence and to all the particulars belonging to it, that gentleman raised his complaint to a height to which it could not, nor cannot reach. — Being so manifest a mistake, resting solely upon the false and sinister communication of some malicious person, anxious to interrupt the harmony existing between the inhabitants of Cuba and the citizens of the American Union, it will prove for that gentleman an opportune reminiscence to guard him against other captious denunciations. — Such is my opinion."

And having adopted it, I transcribe it to Your Lordship for Your knowledge, and in consequence of your letter of the 6th of February.

God

God preserve Your Lordship many years. Habana 19 of March 1839.

(signed) Joaquin de Arpeleta

To The Consul General of the United States of America

(Translation of No. 13)

~~(Translation)~~

~~(The Captain General to the Consul of the U. S.)~~

~~(Translation.)~~

Captain Generalcy
of the
Ever Faithful
Island of Cuba

~~[illegible]~~

Under this date I say to the Commander of the United States Sloop of War Boston, Don Edward Babbit what follows:

"I have received your Lordship's official letter of the 4th inst, wherein, in virtue of the relation made to you by various persons, of the occurrence between an officer of the vessel under your command and a sentry posted at the Tacon Theatre, you ask me to transmit to you a copy of the Sumaria (proceedings of enquiry) which has been instituted, in order to present it to your Government. — It is not possible for me to accede to your wishes, from their being in opposition to the laws which govern Spanish Tribunals, as is stated in the opinion given by the Auditor of War of this Captain Generalcy, with your said communication before him; of which opinion I enclose

to

to Your Lordship a copy marked 1. — But in the document numbered 2., which is a copy of the report made by the Fiscal-Judge, charged with this case, an exact compendium will be found of its whole history; to communicate which is as much as I can do to fulfill in part the wishes ex-=pressed in your said communication, to which this is my reply."

Which I transcribe to your Lordship, enclosing also copies of the same documents, for your knowledge and as a continuation of my letter of the 19th ultimo on the subject of this same occurrence.

God preserve your Lordship many years.
Havana 8 of April of 1839

Joaquin de Espeleta

To The Consul General of the United States of America

[In Sub-enclosure No. 13.]
(Translation)

No. 1.

(Report of Antonio Armero, Auditor of War, to the Captain General, with the Captain General's decree approving and adopting it.)

Most Excellent Sir,

The petition addressed to Y. E. by the commander of the United States Sloop of War Boston presents a serious objection which forbids that Y. E. should accede to his wishes in the terms proposed by him. The laws which govern Spanish Tribunals do not permit the extraction of literal copies of the causes followed up before them, except only in the cases where an appeal to supreme Tribunals, established by the same laws, is allowed to the individual feeling himself aggrieved. But such copies cannot be granted for other objects, special or foreign from this: much less for that of subjecting them to the criticism or censorship of a foreign government, which is avowed in the communication of said commander. The cause instituted in this Captain Generalcy, to which reference is here had, has been brought to its conclusion by the determination dictated by Justice; and of this Y. E. has informed

informed the said Commander, conveying to him a copy of said determination. Relying nevertheless upon the vague account given to him extrajudicially by some individuals, of the occurrence which gave rise to the proceedings, that account would seem better entitled to credit from him than the scrupulous investigation made with all the solemnities, impartiality and care required by the laws and by a proper administration of justice. So strange an error is ascribable only to some hidden cause, whereby it may have been attempted through malice to preoccupy his mind. But as Y. E. feels so lively an interest in disabusing him from such a mistake, and as this fortunately may be easily done without infringing the law, the Auditor sees no objection to Y. E's being pleased to order the transmission to said Commander of a perfect copy of the Fiscal Report, in which document is faithfully summed up the history of the whole case, embracing the examination of witnesses, the nature of the proofs, and the punishment or correction recommended by this Ministry; which, from its being conformable to justice,

was

was adopted in the determination taken. By this means V. E. may render the undeceiving of said Commander compatible with the obser= =vance of the laws. Saving &c. Havana 5 of April 1839. Most Excellent Sir,

Antonio Arnero

Havana 8 of April 1839. Let it be done as is advised in the foregoing report, to which I conform. Espeleta.

A true copy Alexandro de Aranó
Secretary.

[In Sub-enclosure No. 13]

(Translation)

No. 2.

(Report of Colonel Zurita, specially appointed by the Captain General the Juez Fiscal in the case of Purser Southall, to conduct the proceedings of enquiry into the truth of the matter.)

Most Excellent Sir,

Charged by V. E. to ascertain in due form, the true causes which gave rise to the unpleasant occurrence that took place on the night of the 2nd. inst, in the neighborhood of the Tacon Theatre between a soldier centinel of the Regiment of the King's Lancers and two individuals of the United States, I will make an exact though concise review of whatever concerning the subject has been brought to light by means of this proceeding.

By the statements of Don Fernando Fuero, Commanding officer of the picket that was on service, of Don Marians Muñoz 2nd Adjudant of the infantry Regiment of Spain, and of Don Peter Hogan, a private individual and native of Ireland, hearsay witnesses, and principally by the depositions of the eye-witnesses of the occurrence, who were Don Manuel de Moya,

Cornet

Cornet of Cavalry, Don Candido Frutos and Don Antonio Ponce de Leon, corporals of the patrol, and Alejandro Ramos, a private of the Regiment of Naples, ~~which extend from the 5th leaf to the 21st~~ [extending from folio 5 to 21.] it is proved, that, between the hours of half past ten and eleven of that night, they noticed that a hackney volante had stopped at the corner formed by the intersection of the Alameda (Promenade) and the highway which leads from the Monserrate gate by the Tacon Theatre, and that the centinel was calling out to the negro driver to go on and not stop the way to other carriages, to which, and notwithstanding also their urging it, it appears that two foreigners who were in the volante set themselves in opposition. The centinel, corroborating this evidence, confesses (~~folio~~ folio 24) that, for this reason, he gave to the negro, for his disobedience, two blows with the but end of his lance, and that the negro answered that he was not to blame, but those two gentlemen. These, in great anger, hastily got out of the volante, and with furious language, (which the witnesses did not understand) the tallest, dressed in a frock coat and cap, (who has proved to be Mr. Peyton A. Southall, Purser of the United States Sloop

of

of War Boston now anchored in this port) faced the
centinel and threatened him with a whalebone stick
which he carried, whilst his companion Mr. Samuel
P. Sturgis, by profession a merchant, caught hold,
sideways, of the but end of the lance. At this mo-
-ment, the soldier, seeing that not only his consigna
(orders) had been done violence to, but that he was
about to be disarmed and assaulted, jerking his
lance forward, cried out "no one takes my lance
from me", and couching it, gave various thrusts,
in the course of which the said Mr. Peyton received
two very slight wounds, the one situated in the
left cervical region, and the other in the dorsal
region of the left hand, of no importance, since
in six days they were cicatrised, as is established
by the scrupulous and minute inspection, ~~which it~~
recorded on ~~folio~~ folio 20, performed by the Doctors in
Medicine Don Francisco Alonzo y Fernandez and
Don Ramon de los Santos. (1.)

Mr. Peyton and Mr. Samuel being interroga-
-ted

(1.) The first named is at the head of the medical staff of the Army,
- an honorary member of three of the societies of medicine and
surgery of our country,- Philadelphia, New York and New Orleans. The
second is a city practitioner of medicine and Surgery.

N. P. T.

ted, (~~fol~~ folio 27 to 39) their testimony is seen to conflict with what has been made to appear by the other witnesses in regard to the origin of the matter: for they affirm that so soon as the centinel ordered that the volante should go back, they obeyed without the slightest reply, — that at the distance of fifteen or twenty steps, they got out and dismissed the carriage after paying the driver, — that in a few minutes the Lancer came up without saying a word and assaulted Mr. Peyton, who made no resistance; but, on the contrary, such was his submission and patience, folded his arms, and, in his own language, expostulated with his aggressor, saying that he was an American officer, and pointing to his insignia as such.

There are things, most Excellent Sir, which in truth are manifestly opposed to reason and to the natural course of events: as is the case with the two depositions of which I am speaking. For I do not comprehend why the centinel caused that volante alone to return towards the Monserrate gate, when all others passed on towards the theatre, in accordance with the orders under which he was acting. Still less do I comprehend, supposing not the slightest resistance on the part of Mr Peyton and his companion, for what purpose, after they had retired to so great a distance, the centinel, opening a way

way through the dense crowd which had collected, should go straight up to these persons unknown to him, who had in nothing offended him; and this, with the very obvious intention to kill, as has been ironically supposed by some one, which words are to be seen in the translation of the official letter which occupies ~~the~~ folio 37 ~~7th leaf~~

The witnesses named by Mr. Peyton in his favor as eye-witnesses of the occurrence, and who, on the day following visited the Ship Boston, moved by curiosity and with the sole purpose, as they say, of learning how the wounded man was doing, are Don Pedro Gordillo, a clerk in the secretariat of the Army, the gentleman cadet Don Manuel de ~~Urrutia~~ Urrutia, and the distinguished private Don Jose Pimentel of the Militia Regiment of Infantry of this place. These formally and expressly depose (from ~~fol~~ folio 39 to 45) that they cannot give any account of the beginning of the dispute, because they saw nothing of it, although they did hear say in general terms that it had been about a carriage. But having noticed that many people were collecting in the high way, this attracted their attention; and drawing near to that point, they saw Don Jose Pimentel already engaged in conversation with a gentleman, ~~and~~ to whom, making himself under= =stood as well as he was able, ~~said to him~~ he was saying, Man, don't be headstrong, come away with me, and don't misbehave to the centinel. That notwithstanding these entreaties,

the

the American Purser refused compliance, - expressing him-
-self in english in loud and angry terms; until a
lancer came up on horseback, and addressing the person
dressed in the frock coat and cap, said to him, What!
are you not going yet? Well, now you shall know
what a centinel is! And, couching his lance, made
one thrust at him, and returned forthwith to his
post.

And here, Most Excellent Sir, not only do we per-
-ceive, that there had been before this a beginning, in-
-volving headstrong resistance on the part of Mr Peyton,
but it affords additional room for believing what has
been deposed by the first witnesses and for doubting the
truth and ingenuousness, in a departure from
which he and his companion Mr Samuel appear to
have fallen, either through inattention or in conse-
-quence of the heated state in which they were during
this occurrence.

Desirous of legally ascertaining whether there
really had been any one, who, insane and forgetful of
duty, or excited by the crowd, had given vent in angry
cries to curses against the English, with those exclama-
-tions, - "Shame, Shame," in reply to the general cry of
"Kill him, Kill him," "a foreigner, a foreigner," which are
seen in the translation of ~~fol~~ fio 37, already referred to,

five

five witnesses have been examined, (from ~~Leaf~~ folio 47 to 50) from among the persons who were exactly on the spot where the disturbance happened, three of the five being those named by Mr. Peyton in his favor, and not one heard either at the time nor since any such cries and imprecations against any body: Whereby it is proved that a surprise and deceit has been practised upon the Consul of the United States. God knows with what intent. —

Upon a review of the whole matter, it is more than sufficiently demonstrated, that, if the private Fructuoso Silos has earned, as in my opinion he has, by the sole fault committed by him in the hasty use of his weapon at that spot of peace and pure diversion, the correctional penalty of one month's arrest in his barracks, counted from the 2d inst, so also must it be confessed that Mr. Peyton particularly did misbehave with hardihood and temerity, giving rise to the precipitancy on the part of the former, already noticed. Which, I am of opinion, it would be proper that Your Excellency communicate officially to the Commander of the Ship Boston, in order that the said Mr. Peyton may be suitably admonished to observe in future the respectful deportment due to Centinels, as is so strongly enjoined by the laws of all Nations. — Havana

Havana, 16 of February 1839. Most Excellent
Sir, Cristoval Zurita.

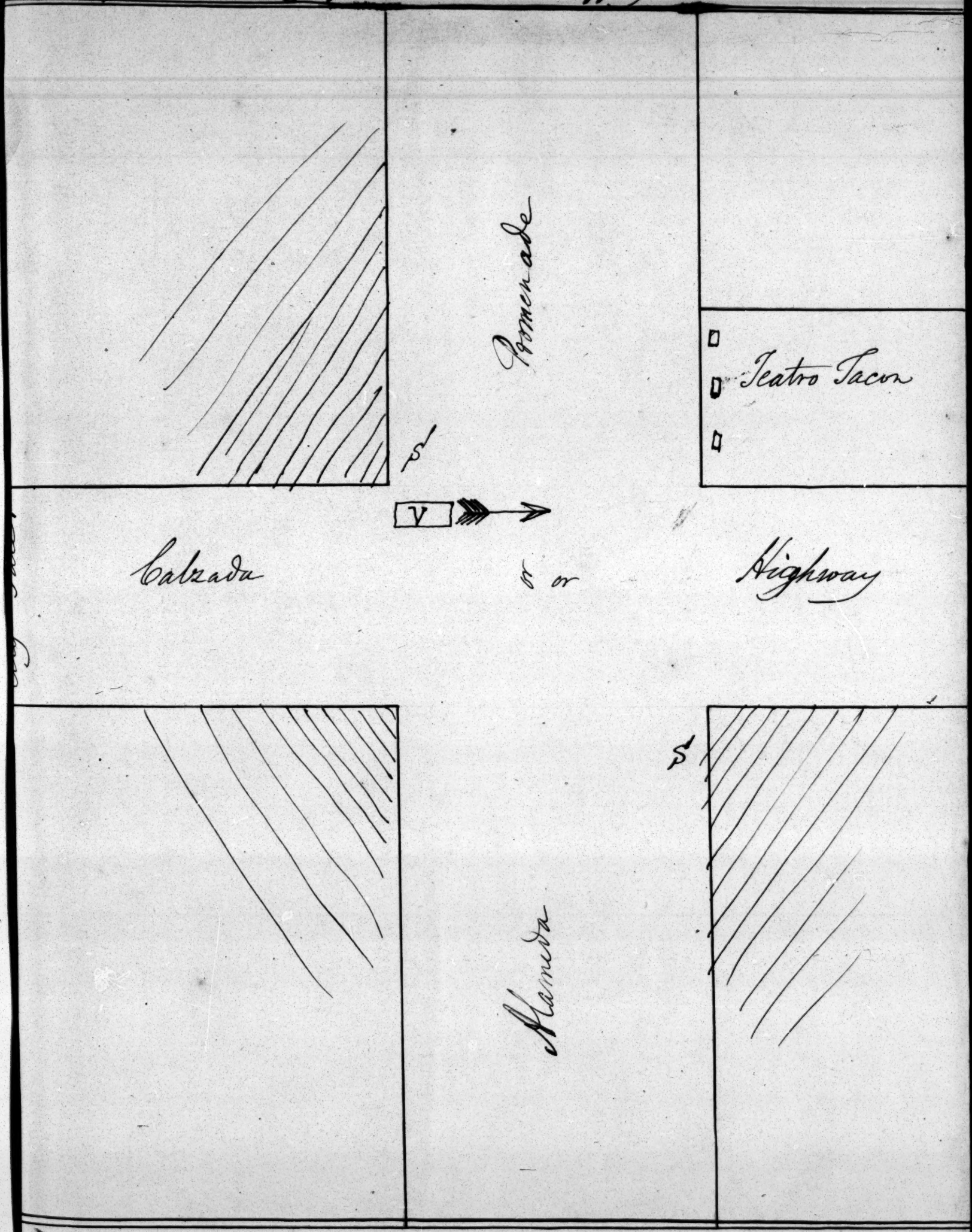
A true copy

Alexandro de Aranó
Secretary.

Havana Consulate No. 84.

Enclosure No. 7.
(Doc. 15.)
Sub-enclosure No. 15.

Diagram explanatory of Purser Southall's affray with the Sentinel.



S. Sentinel on post. [Mounted Lancers.]
V. Volante containing the Purser & W. Sturgis. The arrow shows the direction in which it arrived, and in which the Lancers orders required him to make it proceed.

Havana Consulate No. 84. Enclosure No

Not to be copied.

Havana Consulate No. 84. — Enclosure No. 8.

Rec'd with Consul Trist's No. 84.

Havana Consulate No. 84. Enclosure No. 8.

Heads of Enquiry presented by the case between the Consul of the U. S. at Havana and the Commander of the U. S. Ship Boston. A leading object being to ascertain the degree of reliance that can be placed upon the judgment formed by said Commander in regard to the official conduct and general deportment of said Consul; and as a means to such ascertainment, to eviscerate the truth respecting the habits and condition of said Commander, and his consequent fitness, intellectual and moral, to judge justly on such a subject.

1.— The habits of said Commander in regard to drink. Generaly for years past. Particularly while in command of the U. S. Ship Boston; and more particularly while at Havana during the months of December 1838 and January, February, March and April 1839. Whether he was or was not in the practice of exhibiting himself intoxicated in the streets of Havana and at the houses visited by him. —

2. The state of mind of said Commander generally; and particularly as evidenced by his doings and omissions in the management and government of his ship, and in the state of discipline that prevailed on board of her, especially in regard to indulgence in drink, on board and on shore.

3. The closeness of intimacy that subsisted between said Commander and the Purser of the Ship; and the habits of the latter in regard to drink.

4. Whether, upon the arrival of the Boston at Havana in December 1838, the Consul took occasion, (afterwards renewed in his letter to Commander B. of the 11th December 1838.) to caution the officers of the Boston, particularly through the said Commander and through the Surgeon of the Ship, against three individuals at Havana, named Ferdinand Clark, Dr. Bumstead, and Colonel Throop, as persons whose repute was such that they could not be associated with by American officers without prejudice to the character of their uniform.

5. Whether any step was ever taken by said Commander or Surgeon or any other officer of the Ship, to ascertain the justness of the caution thus given to them. If yea, — to what individual or individuals was recourse had? The name, the calling and the place of residence of each; and what ground existed for selecting, and placing reliance upon, him as a source of information on this subject?

6. Whether the said three individuals or either of them was associated with by the officers of the Boston? If yea, was there any intimacy between the two parties a between particular individuals belonging to them? If yea, who were the individuals between whom it was most marked?

marked? Was the Purser on familiar terms with Dr. Bumstead, and how far did this familiarity extend?

7. Were the officers of the Boston or any of them entertained at the house of Mr. Ferdinand Clark? How often? Was it a place of habitual resort to them? What persons did they meet there? The name, nation, calling and place of residence of each; and particularly if there was among them any American resident at Havana.

8. Whether the Consul of the United States was a subject of conversation at these entertainments, a elsewhere between these parties? If yea, in what terms and spirit was he spoken of? Whether any indications were afforded of animosity against him on the part of Clark, Bumstead & Co, or on that of Commander Babbit, Purser Southall or any other individual? Whether any indications were afforded of a purpose and plan to injure his standing with the government and the public in the U.S. If yea, a particular statement of what these indications were, and of every thing connected with them.

9. While the Boston lay at Havana, was one of her boats placed at the service of a Capt. Wendell or any other person or persons, for the purpose of visiting american vessels in the harbor? If yea, what was the object of these visits: was it to obtain signatures to papers hostile to the Consul and favorable to Commander Babbit?

10. On the occasion of each of the three visits of the Boston to Havana in December 1838, January – February, and April 1839, did repeated postponements occur of her sailing? If yea, a particular statement of the date of every such postponement, and of its cause, either known, supposed, or rumored.

11. On the 5th of January, the day of the return of the Boston to Havana, Commander B, in company with the Purser called upon the Consul, offered to take charge of any communications for Pensacola, and informed him that the ship was under the necessity of returning there forthwith, and could not stop at Havana more than a day or two, because her provisions were all but out.

1st – What cause or causes occurred after the 5th to determine Commander B. not to sail on the 6th or 7th, and to postpone his departure until the 12th or 13th of the month? (for which time it was fixed on the 11th, as appears from his letter of that date to the Consul.) – A full and precise explanation on this point.

2d – Had counsel or representations from Mr Perkins and Clark, Dr Bumstead, Purser Southall or any other individual any agency in producing this change in Commander B's purpose?

3d – Between the 11th of January and the morning of the 12th or 13th, what cause occurred to change the

the determination announced in Commander B's letter of the 11th, to sail "tomorrow or next day"?

4th. At what precise hour did this change of determination take place, and to what date was the sailing of the Boston then adjourned? From that time until the sailing of the Boston on the 17th of February, how many such adjournments took place; and what was the determining motive to each?

5th. Were the orders under which Commander B. was, such that, without violating them, he could not except in the case of his provisions happening to be all but out, put into Havana, "for one or two days" (and lay there upwards of six weeks)" on his return to Pensacola"?

6th. During this six weeks stay at Havana, what provisions were purchased for the Boston?

12. The first letter of Commander Babbit to the Consul, under date the 9th Decr. 1838, was delivered at the Consulate on the morning of the 10th.— The Consul's reply, under the latter date, was delivered early on the morning of the 11th.— The Boston sailed on the afternoon of that day, and returned on the 5th of January.— Commander B's second letter, (in answer to the Consul's first) delivered at the Consulate long after office hours, on the afternoon of the 11th of January, bears that date; exactly one month after the receipt of the Consul's, and

six

six days after the return of the Boston to Havana.

1st.- Why was this communication delayed so long?

2d.- Was the Consul's letter of the 10th of December, to which it is an answer "left with a Grocer," or was it "sent by a Grocer," whose business would oblige him to visit the Ship Boston at the earliest hour on the morning after the night when the letter was written?

3d.- If the latter was the fact, why does Commander B's letter contain an assertion of the former?

4th.- Is a man, because of his being "a Grocer," an improper hand by which to convey to a Sloop of war a communication addressed to its Commander?

5th.- Or did the unfitness lie in this particular Grocer? If so, has Commander Babbit or his friend Purser Southall ever frequented his Grocery, or gone in there in a sociable way, and taken "a pull" at his proffered drinkables?

6th.- Was the Consul's letter delivered on board the Boston, before or after Commander Babbit had "turned out" or risen? Or was Commander B. on board at the hour the letter got there?

His letter states, in a manner implying that it afforded just ground of complaint, the fact, that the Consul's letter was not received by him "until the morning of my leaving this port," which morning was that of the 11th of December, less, by four or

five

five hours, than one day after the delivery of his letter, to which this was a reply. —

7th. Is this, according to Commander B's theory or practice, a dilatoriness affording cause of complaint? If not, what feeling prompted him to make the complaint, or what object ahead was it, with a view to which it was made?

13. 1st. Did Commander B. during his stay at Havana in Dece., upon being asked by a British officer if he had been to visit his Consul, reply that it was out of the question to visit a man who lives <u>five leagues</u> out of town?

His letter of January 11th ending, "I shall leave here <u>tomorrow a next day</u> for Pensacola; any communications you may have for the Commander of the U.S. Forces on this Station, I shall be happy to take charge of," was delivered at the Consulate <u>between</u> the hours of 4 and 5 P.M., nearly two hours after that for closing it, as is notified on the door. It consequently did not come into the Consul's hands <u>until</u> the next day, at an hour when, had there chanced to be on the part of Commander Babbit a really definite purpose to sail "tomorrow," the Boston would have left the land fairly out of sight.

2d. Had it chanced to be important, that the Consul should communicate with the Commander on this Station, what would have been the consequence of this mode of

<u>timing</u>

timing the notice and offer to him? And what is the meaning to be attached to, or the inference to be drawn from, such a timing of a notice, particularly to "a man who lives five leagues out of town"?

14. The Consul's letter in acknowledgment of that of Commander B. under date the 11th January, wherein the Consul was informed that the Boston would sail "to-morrow or next day," having been written and sent on the 12th of January, — another letter from Commander Babbit, under date the 16th of January, was brought to the Consulate late in the evening of that day. —

1st. Was there any definite object, with a view to accomplish which this letter was written? If yea, what was that object?

If the answer to the foregoing question be, that the object of the writer was, to instruct the Consul in the point of international law, that "such offences committed under our flag, are only cognizable to the Courts of our own Government," and to dictate to him his line of duty under that law, — this answer will apply only to the second paragraph of the letter, leaving the first still to be explained. —

2d. In regard to this first paragraph, was there any definite object, with a view to accomplish which it was written? If yea what was that

object?

object?

3d. Was or was not this paragraph written at the Consul? And did it constitute a part of its design and aim, by a bold stroke of misrepresentation, to impose upon others than the Consul the belief that he had, in his correspondence, with Commander B. taken the position wherein it suited the purposes of the Commander or of those whose tool he was, that the Consul should, in other eyes, appear to stand?

The Consul's letter of the 12th was, so far as can be now recollected, hurriedly written and sent on the morning of that day, in the belief that the Boston might, at that instant, be sailing out of the harbor or be already beyond reach, on her way to Pensacola. — Five days after this, court late on the evening of the 16th, Commander B's letter of that date was brought to the Consulate. — The first paragraph consists of an acknowledgment of the Consul's letter of the 12th, and an expression of Commander B's. "regret that your (the Consul's) pressure of business is so great as to prevent an explanation respecting the case of American Seamen, now confined here, for mutinous conduct on board of, and under the Flag of the U. States."

This "regret" involves three assertions on the part of Commander B. court: 1st That the Consul had been called upon for "an explanation respecting the case of

American

American Seamen," (those of the Ship Wm Engs) "confined here for mutinous conduct." 2dly That he had declined giving such explanation. 3rdly That he based his refusal upon the ground that his pressure of business was too great.

In regard to these assertions, the correspondence between Commander B. and the Consul must be examined particularly with reference to the following points:

1st What was the precise nature of the call for explanation in regard to the case of the Seamen of the Ship Wm Engs, contained in the first communication of Commander Babbit, under date Decr 9. 1838?

2nd What was contained in regard to the Seamen of the Wm Engs, in the Consul's reply of the 10th Decr; and whether, (supposing it to be a matter of right for the Commander of a Sloop of war to compel a Consul into a correspondence of this nature) said reply was or was not sufficiently explicit and detailed upon the case of these men?

3rd Supposing the question just put, to be answered in the negative:- Whether any further call for explanation regarding the men of the Wm Engs was ever made upon the Consul? If any such contained in Commander B's letter of the 11th of January? Even leaving out of view the timing of that letter with regard to the sailing of the Boston, (which timing

rendered

rendered its peculiar tone and character in every respect
the more marked) can it be viewed in any other light
than as an outpouring of hostile feelings, finding vent
in a broken rhapsody, consisting of, 1st a complaint of
the mode in which the Consul's letter, now a month
old, had been sent on board the Boston; 2nd. A statement
of what had been Commander B's object in addressing to the
Consul his letter of the 9th December, tourit: to obtain infor-
=ation as to the crimes the mariners had committed: which
statement, particularly when coupled with the general tone
of the letter, was expressive of disappointment and censure,
but did not renew any call for information or explanation
in regard to the cases of the mariners, or any other subject; but
just the reverse, conveying as it did the idea of leave-taking
and closing of the correspondence; 3rd. An offer of a passage
for the American Seamen of the Wm Engs, coupled with,
(the Boston, it will be recollected, was to sail "tomorrow or
next day," and this letter was so timed as not to be received
till "tomorrow,") coupled with renewed instruction as to
the bearing of international law on the case, and the
duty of the Consul, and the hope of Commander B
that the Consul would "represent their case to H. E.
the Captain General," (See the Consul's letter of which
this is an acknowledgment) "and if possible to have
them sent to the United States;" 4th. A paragraph

of

of anger and patriotism poured out upon the closing remark of the Consul's letter; and 5th, "I shall leave here tomorrow or next day." &c.

4th. Such being the character of the letters which had passed between the Consul and the Commander, including that from the Commander of the 11th January; and the remark contained in the Consul's reply of the 12th, expressing regret, that the urgency of the demands upon his time (on that day, - the last of the stay of the Boston, which indeed was perhaps already gone) should prevent his entering into the explanations which, he should otherwise offer, being expressly limited to such parts of Commander Babbit's letter "as call for them":

1st. Whether this had not obvious reference to those "parts of" Commander B's letter, wherein circumstances were set forth as affording grounds for offence-taking on his part, and which therefore did "call for" "explanations"?

2d. Whether there be any other part of that letter which could be deemed by any reader to call for "explanations"?

3d. Whether, taking these two letters into consideration together, it be a be not a plain matter of fact, that the passage in the Consul's reply wherein the word "explanation" occurs, does not convey a refusal to give "an explanation respecting the case of the American Seamen"?

Whether

4.ly Whether, if besides those two letters the previous parts of the correspondence be taken into view, these do or do not render the fact just expressed still more manifest and irrefragable?

5.ly Taking the five letters into view at once, 1st Whether any thing like a call upon the Consul for "an explanation respecting the case of the American Seamen" can be found in Commander B's letters, except in the passage of his first, requesting "any information respecting the correctness of their several statements."? 2d. Whether this call was or was not sufficiently responded to in the Consul's reply to that letter? 3rd. Supposing this response not to have been sufficient, and supposing also Commander B to have been invested with plenary authority to call upon the Consul for all the details of the case, — Whether any such call could be responded to without its being made? 4th — Whether, of the three assertions involved in the "regret" expressed in the first paragraph of Commander B's third letter, as analysed above, assertions Nos 1, 2 & 3, be or be not severally and collectively false, groundless, purely gratuitous, destitute of the shadow of a shade of any reasonable pretext? 5th Whether the correspondence on the part of Commander B. does or does not manifest a purpose formed as early at least as the 11th of January 1839, to seek causes of quarrel and pretexts for gratuitously insulting the Consul?

15.– Whether Purser Southall, Ferdinand Clark and Dr. Bumstead or either of them or any other person did assist in the writing of Commander B's letters to the Consul, or was consulted with in regard to said letters, or had them shewn to him?

16.– Whether Commander B. did furnish to Ferdinand Clark or any other person, a copy or copies of any, and what, part of his correspondence with the Consul? If yea, at whose suggestion or application was this done? Was it at the suggestion of Purser Southall? If on application from Ferdinand Clark or Dr. Bumstead or any other person, how came he to know of the correspondence?

17. Commander Babbit did obtain from the Captain General a copy of a certain letter addressed to H.E. by the Consul on the subject of the seamen of the Ship Wm. Engt.

What were all the circumstances connected with the obtainment of this letter? Did it form a subject of conversation and consultation between Commander B. and Purser Southall Ferdinand Clark, and Dr. Bumstead or any other person? If Yea, what was the nature of such conversation and consultation?

18.– Was it an object with Commander B. to keep from the Consul all knowledge of his movements with regard to this letter, and also of the fact of his having obtained a copy of it? When Commander B. employed Mr. Zaccrac of Havana

to

to make a translation of this letter from the Spanish into English, did he charge him particularly to keep it a secret from the Consul? If yea, what was his motive for observing this mystery? Was it spontaneous, or was it counselled by Purser Southall a Dr. Bumstead or any other person?

19. Whether in the conversations or consultations of which this letter formed the topic, it was considered as affording ground for the charge against the Consul of having practised falsehood or deceit towards Commander B. in the correspondence that had taken place between them?

20. Whether such a course as that which, under the two foregoing heads of enquiry, may be ascertained to have been pursued by Commander B. be within the proper functions of a Commander or of any other officer of the Navy? Whether it be calculated to benefit any branch of the public service, or to be attended with the effect of elevating the national character?

21. Supposing an officer of the Navy to possess authority unlimited, to scrutinize the conduct of a consul, to inspect his correspondence with the authorities to whom he is accredited, and to be furnished with copies thereof, — is the proper mode of obtaining these, by application to the Consul? or is it by application to the authorities? If by the latter, ought the application to be open or surreptitious? If surreptitious, ought it to be accompanied with mysterious givings out, to be cautiously circulated, so that they shall not come to the

Consul's

Consul's ears until all shall be ready to open upon him, of his having been detected in falsehood when called upon by proper authority, to give an account of his official doings?

22. Why the Consul was not advised of the occurrence between Purser Southall and the Spanish Lancer, but was left totally in the dark on the subject, unable to answer any of the numerous enquiries addressed to him, from the night of the 2d of February, when the affair happened, until a few minutes before meridian on the 6th?

23. If Commander B's communication to the Consul on the subject of the Purser's affair, under date the 5th of February, was written on that day, why it was not delivered at the Consulate until the middle of the next?_ If his communication on the same subject, addressed to the Capt General under date the 4th of February, was written on that day, why was it not sent until about mid-day on the next? (In Commander B's letter to the Consul, just referred to under date the 5th his letter to the Capt. General is spoken of as "this day addressed". It is dated the day before.)

24. Whether Commander B was advised by Mr. Samuel P. Sturgis of a conversation between the Consul and Dr. Ballard of Louisiana; wherein the latter expressed his disapprobation of the course pursued by Commander B., and the Consul, his determination to bring the matter

to

to the notice of the Government? - Whether until this ad=
=vised, it was not his, Commander B's, intention not to
communicate with the Consul on the subject of the Purser's
case? If yea, through what motive was this course resolved
on? Was it merely to indulge the disposition to treat the
Consul with slight, and if possible to subject him to mor=
=tification with the American citizens and others who would
naturally apply to him for information?

25. Were Ferdinand Clark, Dr. Bumstead &c advised with in
regard to the case, and also in regard to the course to be pur=
=sued towards the Consul?

26. On the 2nd of February, what company dined with the
officers of the Boston? At what hour did they sit down
to table; and at what hour did they rise from it? At
what hour did the Purser and his companions go on shore?
What was their condition in regard to sobriety: that particu=
=ularly of the Purser and Mr. Sturgis?

27. In giving an account of the affair, did Mr. Sturgis state
on board the Boston, or elsewhere, that the Purser had a
small whalebone stick in his right hand, and, without
intending to strike the Lancer, had elevated his right
hand with the cane held up in it, in the way that a
man naturally would in saying, "strike me if you
dare"?

28. After the return of the Boston to Pensacola in
February

February 1839. the following notice of that event appeared in some paper in the United States, referring as will be seen, to the Pensacola Gazette as its authority:

"The Sloop of War Boston, Captain Babbit, arrived at Pensacola on the 22nd. ult, after a cruise of one hundred and forty nine days among the keys and along the coasts of Florida, and Cuba, having passed inside the Florida reefs from Sombrero Key to the Dry Tortugas, a passage never before performed by a sloop of war. The Pensacola Gazette states that the Boston was detained at Havana much longer than her required time, in consequence of the active part taken by her commander, in relation to the difficulties arising between the masters of some American vessels and the authorities of Havana involving questions of much import to their respective governments. Before leaving Havana an address from the American citizens resident there, and masters of vessels in port, at the time, was presented to Captn. Babbit expressive of their thanks for the able and zealous manner in which he had espoused their cause, and also their gratitude for the benefit which had accrued to them from the protection afforded by his presence, and begging a continuance of it, should it comport with his duty, by remaining at Havana.

The day previous to the sailing of the Boston, her Commander and officers partook of a complimentary

complimentary dinner given to them on board the Ship Orleans of Boston Captn. Bradbury, by the merchants and shipmasters in port."

This publication presents the following points of enquiry:

1st. Who was the writer of the article in the Pensacola Gazette?

2nd. By whom were the facts furnished to the Writer?

3rd. At whose suggestion or solicitation were they furnished, and was the publication made? Did Commander B. or Purser Southall or any other officer of the Boston engage in preparing the article or the materials for it previously to the arrival of the Boston at Pensacola?

4th. If yea, what were the motives? Did uneasiness at the accountability incurred by having delayed so long at Havana, and that attached to occurrences there, constitute any part of them? Did another part consist of uneasiness at the position taken by Commander B. with regard to the Consul, and the desire to provide beforehand against the enquiry to which that might lead by preoccupying the public ear?

5th. On what day and what hour did the Boston sail from Pensacola on the cruise from which she returned on the 22 of February 1839? On what hour of that day did she enter the port, and what was the exact number of

days

days between the hour of her departure and her return?

6th. Of this number of days how many were spent in the port of Havana? How many in the port of Key West? Deducting these from the total absence from Pensacola, what was the exact number of days spent in the "cruise of one hundred and forty-nine days among the keys and along the coasts of Florida and Cuba"?

7th. Of this number of days, how many were spent in what can be properly termed cruising on the coast of Cuba? How many in cruising on the coast of Florida? Deducting these from the sum total, does the remainder represent the number of days spent "among the keys" of Florida?

8th. Of this number, how many were passed within the keys of Florida? Were any of them passed at anchor, or in lying to? If yea, how many, and at what points?

9th. For what object was this number of days passed within or among the keys of Florida? Did it promise any result of utility to the public service? Was the motive entirely, chiefly, or in part, because among the keys the water was smooth; and as the ship had to be "at sea", that is, not in port, it was pleasanter to be within, than outside of, them?

10th. "The Boston was detained at Havana much longer than her required time." What does "required time"

mean

mean here? It is put in contradistinction to the time during which she happened to be detained by the causes afterwards specified. The only meaning it can convey, therefore, is, that she was "required" by her orders to spend a certain time at Havana. What was this "required time"?

11th. But she was detained much longer than this required time by a certain cause, which was, "the active part taken by her commander, in relation to the difficulties arising between the masters of some American vessels and the authorities of Havana." — Who were these "masters," and what the names of their vessels?

12th. What, with respect to each, was the difficulty in which he was involved?

13th. What, with respect to each, was the "part" taken by Commander Babbit? And, in what mode was that part "active"? How many letters did he write in all, what dates were given to them, and on what days and at what hours were they sent? When written in reply to a letter from the authorities, what was its date, and at what time had it been received?

14th. These difficulties "involved questions of much import to their respective governments." What were these questions?

15th. In consequence of which, the principles, & what part of the orders, to which Commander B's course as an officer owed conformity, did it devolve upon him to discuss these questions, & to agitate these subjects?

16th.

16th. If this did properly devolve upon him, was it proper that he should act on the subject without consulting with, or notifying to the Consul?

17th. If the last be answered in the affirmative, still, — was it proper that his action upon it should be so managed and qualified as to be turned into an instrument of unprovoked insult to and calumny against the Consul?

18th. "An address from the American citizens resident there, and masters of vessels in port at the time, was presented to Captain Babbit." What was the origin and the history of this address?

19th. With whom did the idea originate? Was it with Commander B. or Purser Southall, or Ferdinand Blark, or Dr. Bumstead, or whom?

20th. By what person or persons was it written? Who were the first signers? By whom was it circulated for signature, and where? Was one of these persons Capt. Wendell, formerly of the Brig Hremlin, and at that time in the employ of Ferdinand Blark? Did he go about among the shipping to obtain signatures, and was a boat of the Boston put at his disposal for the purpose?

21st. The address is stated to have been from "the American citizens resident there"; that is, all of them. Who were these citizens? Did they include the principal american merchants, and the Americans in their employ?

22nd. The address is stated to have been "expressive of their thanks for the able and zealous manner in which he had espoused their cause". — In what particulars was it, that the "cause" of the American residents and ship masters at Havana was espoused by Commander B.? — What precise service or services was or were rendered by him or attempted to be rendered?

23rd. — In what respects had his advocacy been seen to be "zealous," or proved to be "able"? By what person or persons, or through what means, had the signers of the address become informed of the services for which they were thus indebted?

24th. The address was expressive "also" of "their gratitude for the benefit which had accrued to them from the protection afforded by his presence". What was the precise nature of the "benefit" here referred to? By what particular incidents, or in what precise shape, was the protection afforded by his presence made manifest?

25th. Supposing this precise shape to be ascertained, in what did its extraordinary peculiarity consist, distinguishing it from the protection afforded by the presence of other commanders?

26th. If no such extraordinary peculiarity can be found, the mission towards other Naval Commanders of similar bursts of gratitude for the past and entreaties for the future, places us under the absolute necessity of believing that in this instance these expressions must have arisen

from

from some other cause and motive and had some other end in view than those assigned; and the question occurs, whether, — in the circumstances in which Commander B. must, on his return to Pensacola, stand with respect to the orders under which he left there, — in the relations in which he had placed himself towards the Consul, — and in the relations in which the Consul stood to a large number of American citizens and ship masters, chiefly through the bitter malignity and perennial falsehoods of the two or three most infamous characters among all the Americans at Havana, which characters were the most intimate associates of Commander B and his friend Purser Southall, — whether in all these circumstances, to peculiarly distinguishing the case of Commander Babbit from that of all other Commanders of any grade who had visited the port, a satisfactory solution can be found of the mystery why, for the first time, an address should be got up in his favor, thanking him and entreating him on various grounds, whereof the only one endowed with anything like tangibility or truth is, the fact stated at the outset of this newspaper puff, to wit: the fact, that his ship had been "detained at Havana much longer than her required time"?

27th. This article asserts the "complimentary dinner" to have been given "by the merchants and ship-masters in

in port." "The merchants"! How many? And what their names? "The Shipmasters in port"! How many were subscribers to the dinner, and what their names?

29.— On the return of the Boston to Havana, on the 2nd of April, did Commander Babbit send his first Lieutenant to the Consul and to the Capt. General with a message offering to take charge of any communications for the north, and fixing upon "tomorrow or next day" for the departure of the Boston?

30.— The 3d. of the month being the day thereby fixed as the possible day, and the 4th as the latest day of her sailing, what cause, unknown to and unforseen to Commander B. on the 2nd, prevented her departure on the 3d and again on the 4th?

Was the desire to participate in the approaching masquerades among the causes of the change of plan?

31.— In regard to Commander B's letter to the Consul of April 4th delivered by Purser Southall:

1st Whether there was any special reason for causing the letter to be borne by this officer?

2d Whether there was any special object in view, and what, in underscoring the word "demand" in the sentence "I have to request you may be pleased to demand of the Capt. General copies" &c?

3d Whether, in the reference made to this letter, and the statement regarding its tone and its purport, contained in

Commander

Commander B's subsequent letter of the 11th April, there was any special object in view in omitting the underscoring of the word "demand"?

4th.- Whether in the letter addressed by Commander B. to the Capt.n General, his own application for a copy of the testimony was made in the tone of emphatic "demand" which he had seen fit to prescribe to the Consul for the occasion?

5th. If it were made in a different tone, Why so?

32.— The definitive reply of the Capt. General to Commander B. having been received by him on the 8th of April, what cause or causes occurred to protract still further the "tomorrow or next day" of the Boston, until the 15th of April?

33. Whether during this last visit, complaint against the Consul was made to Commander B. by one or more American Ship-masters? If yea, what those complaints were? How were they received? Did he say in regard to them or any of them, that he would write to the Consul on the subject, and behave so as to produce the impression in the port of Havana, that he was going to set the Consul to rights and redress all grievances? If yea, why did he not so write to the Consul?

34.— The Schooner George A. Crook of Baltimore was, on the 24th of January 1839, sold at Havana, and William Moore, the master, very reluctantly and after taxing the Consul's patience very severely by his numerous shifts to evade the law, complied with the Consul's positive requirement that he

should

should pay the three month's extra wages for such of his crew as were upon his crew-list as American citizens.

Whether, on that day or on the next Capt.n Moore, upon stating to "Commodore Babbit", as he called him, the hardship to which he had been subjected, was informed by him that the Consul had imposed it contrary to right, and that he, Capt.n Moore, was under no obligation to conform to the Consul's requirement?

95. Whether in the month of April, a mariner (the mate of what is called a "Sea letter" vessel, because she sails with a notarial document referring to an Act of Congress positively forbidding the granting of a "Sea letter" to any such vessel,) enraged at the Consul because he would not exact the three-months extra wages in his favor, and because further, he required of him to ship instead of "knocking about drunk", was taken & invited on board the Boston, and there induced to give an affidavit, to the effect that, upon his telling the Consul that he had a protection, the Consul had said "Damn your protection."?

If such an affidavit was obtained or attempted to be obtained, all the particulars, regarding the origin of this endeavour, and the persons concerned therein?

96. Whether during the visit of the Boston in January-February, the following incident did occur: One night, two naval officers presented themselves for admittance, offering to pay their way,

at

at the ball of the Philharmonic Society, embracing the elite of Havana fashion. They were stopped at the door, and informed that the ball not being a public one their money could not obtain them admittance. The master of ceremonies being inform-ed of the case, and that they were "American Officers", invited them in, saying however that he must request them to throw away the cigars they were smoking. Having obtained admittance, one of them invited a lady to dance, and stood up for the pur-pose; but, when the time was come for them to set out, he stood with his arm round her waist, see-sawing, but inca-pable of getting under weigh. Seeing which, a gentleman of the country addressed himself to some British officers present, to request that one of them would extricate the lady from the embarrassing position in which she was placed by their bro-ther officer. But they declined compliance, excusing themselves on the ground that he was mistaken in his supposition, inas-much as they were of the British Service ?

If this incident did occur, — whether it was cir-culated and considered as an occurrence not to be at all wondered at, seeing that it was connected with the Ship Boston ?

37.th Whether during the visit of the Boston in April, a party was, on the night of the 8.th or 9.th formed from her, consisting of officers and sailors, to visit the masquerade at the Teatro Tacon, the scene of the affair between the Purser of that Ship and a Spanish

Enc.

Spanish Lancer, on the night of the 2nd. of February ?

2d.- Whether or not great excitement had always prevailed on board, among officers and men in regard to that affair ? And whether that excitement had then very recently been renewed and strengthened ?

3d.- Whether there was any intention on the part of Commander B. or of any concerned, that a disturbance should be raised between the party from the Boston and the people of the country ?

4th. If no such intention existed, whether there was any expectation of such an event, as one likely to happen ?

5th.- Whether the officers of the party, or any of them did wear their side arms at the masquerade, where every weapon of every kind is embraced in a notorious prohibition, so vigilantly and strictly enforced that no one ever dreamt of infringing it ? Whether the men also were, as the inhabitants of the country supposed from the whole aspect of the affair that they all were, provided with deadly weapons ?

6th.- Whether the officers and men or any of them, became so intoxicated at the theatre as to be incapable of walking straight, and to make spectacles of themselves ?

38. Whether on the night of the 3rd of April last, or any other night during her visits at Havana, a boatful of prostitutes, or any prostitute did go off to the Ship Boston ?- If yea, how long did they remain, and in whose company ?

39. Whether during her last visit at Havana, one of the Lieuten-
ants of the Boston did send a challenge or a note in the nature
of one to a citizen of the United States, upon the sole ground
of the latter's having observed in a friendly way, while in conver-
sation with him at the Mansion-House hotel, that he under-
stood that the discipline on board the Boston was not very
strict? If yea, whether the conduct of the Lieut was em-
phatically approved of by Commander Babbit? What were
all the particulars?

40. 1st. Whether in the month of February last, a passage to Pensac-
la was offered by Commander B. to Mr. Baldwin of Florida,
who, in consequence of some legal proceedings arising upon his
complaint to the authorities of the robbery of his effects from
the vessel in which he came to Havana, had been informed
by the authorities that he must not leave the island until
those proceedings should be brought to a close, and had been
exempted by them from all compulsory measures for securing
his attendance?

2d. Whether in the month of April following, he
gave a passage to Key-West, to a Mr. Habermann, who
had come to Havana from New Orleans? If yea, whether
the said Mr. H. was taken away from the country in defi-
ance of its laws, or whether its requisitions were complied
with in regard to persons departing from it: which requisi-
tions have for their principal object to prevent debtors from

stealing

stealing away from their creditors; in case of which event's happening, the vessel taking a person without a passpot be= =comes liable for all the debts he leaves behind? — Whether Commander B. had any evidence or ground for believing that Mr. H. was not, or that he was, indebted at Havana?

3d. Whether in the same month of April, Mr. La Bruyere and his family, citizens of the U. States who had been residing for some time in Mexico, having come to Havana for the purpose of obtaining a passage to the U. States, were offered one by Com= =mander B. on his departure for New York, via Key-West; and upon reaching the last named place, were there deposited, on the ground that his instructions did not leave him at liberty to take female passengers?

4th. Whether the result of the accomodation thus afforded to these citizens of the U. States was, that after an inconvenient de= =tention at Key-West, Mr L. was compelled to charter at great expense a vessel to bring himself and family back to Havana?

41. — Whether in the same month of April an occurrence of the following kind occurred: A judicial enquiry had been instituted by the authorities, upon a representation made by the Consul in behalf of a Sailor of the Ship New Orleans, who had been brutally beat on board, (as he alleged first by the mate, and then by the master and mate together) and then thrown into jail by means of falsehood practised by said Master upon the Vice-Consul. In the course of this inquiry, process being served on board the New-

Orleans,

Orleans, to procure the attendance of the mate and of two of the seamen who had been named by the complainant as eye-witnesses of his maltreatment, the flag of the New Orleans was hoisted union-down, or half-mast: whereupon a boat was instantly despatched from the U. S. Ship Boston, and removed to her the persons whose testimony was sought?

42. Whether this occurrence or the case generally, was, by Commander B., or Purser Southall or any other officer of the Boston, used as a teat for producing excitement among the American Ship-masters and other citizens at Havana against the Consul, by eulogizing the patriotic anxiety of the Commander to "espouse the cause" of American citizens, in honorable contrast with the "aristocratic indifference" "imbecile tyranny" &c &c of the Consul?

43. 1st Whether, in addressing to the Consul his long letter under date April 11th Commander B. had in view any definite end or purpose which was to be effected by said letter?

2d Whether said letter was written with the assistance of Purser Southall, Dr. Bumstead or any other person; or was read or shewn to any such person or persons; or was a subject of consultation with them?

44. In the first paragraph of said letter, Commander B. states his object in writing it to be twofold: 1st "To reply to the Consul's letter of the 5th (4th) inst"; and 2dly "To notice more particularly your proceedings in relation to the affair of the Seamen of the

Wm"

2d

Wm. Engs.—

1st. Whether the Consul's letter needed any reply whatever? 2nd. Whether any end of the "Public Service" could possibly be effected by replying to it? 3rd. Whether, if it were deemed by Commander B. to be objectionable in either its matter or manner, the proper course for him was or was not, to lay it before the Government, with such remarks as he considered requisite, instead of making of it a pretext for sending to the Consul a rhapsody of insulting imputations, strung together, or rather bundled up in a tissue of gross misstatements and misrepresentations, fabricated for the double purpose of conveying the insult to the Consul and practising imposture, to his disadvantage and to the credit of Commander B., upon the people of the U. States?

45. At the fifth paragraph of Commander B's letter, commences his rhapsody on the subject of the case of Purser Southall; which is the subject first mentioned, in the opening paragraph, as the theme of the letter.—

A true history of the case itself, of the course pursued by Commander B. with regard to it, and of that pursued by the Consul, will be found, supported by the communications which passed between them, in Enclosure No 7. to the Consul's letter No 84. to the Department of State.

1st. Whether the statement contained in said fifth paragraph, so far as the same is intelligible, do convey a true or an untrue notion of the position occupied by the Consul with regard to the subject at the stage of it there referred to?

2nd.

2nd. The sixth paragraph begins with an expression of Commander B's. astoundment, involving the assertion that he has now found that the Captain General had given to the Consul more reasons for passing over the case of Purser Southall in silence. Whether there be in the letter of the Consul, to which Commander B. is here pretending to reply, or anywhere in the whole history of the business, any ground whatever for the assertion thus made? Whether the fact thus found by Commander B. be or be not a fabrication of his own, made for the express purpose of serving as a basis for the astoundment which was to come in as a portico at this part of his structure?

3rd. The same sixth paragraph ends with another assertion, to wit: that the Consul's reply to Commander B. of the 4th of April gives him to understand, "that the weight of your official influence would be thrown against your fellow Countrymen!" — Whether this assertion be or be not a worthy termination of the part of the building to which the astoundment serves as portico?

4th. Whether the remainder of the matter contained in this letter upon the same subject, including the assertion, "On the 5th. day of February I addressed you on the subject," (made with reference to a communication dated on the fifth, but brought to the Consulate at midday on the sixth!) be or be not in good keeping with the parts just considered?

considered?

46. Supposing the necessity to have existed for Commander B's replying to the Consul's letter of the 4th of April, (which letter related exclusively to matters connected with the case of Purser Southall,) — 1st. Whether it was necessary that Commander B's. "reply" should con=-tain a word on the subject of the Seamen of the Wm Engs?

2nd The expression of "amazement and deep concern", of which the second paragraph is made up, involves an assertion, that the Consul had "been able to extract" from Commander B's "letters or conduct in the busi=-ness referred to" (that of the Wm Engs) "any disrespect to your official duties or any unnecessary or improper interference with your consular prerogative."

Whether Commander B. had received from the Consul, directly or indirectly, any intimation or indica=-tion of his having "been able to extract" such things from Commander B's letters or conduct? If yea, what was the intimation or indication? If nay, whether or not this expression of "amazement and deep concern" was an artifice of Babbit-Southall-and-Bumstead-rhetoric, for introducing, under cover of an attack upon the Consul for his anxiety to "extract" pretexts for offence-taking, a defence of Commander B. himself in relation to conduct whereby he and his prime Minister were

fully

fully aware that they had incurred a heavy responsi-
-bility? — Whether in the disclaimer of "disrespect"
to the Consul's "official duties," contained in this para-
-graph, the words "official duties" were underscored for
the purpose of signifying to the Consul that personally
he was an object of Commander B's "disrespect"?
If nay, what was the end for which those words were
underscored? If yea, what ground for personal
disrespect had been afforded by the Consul to Com-
-mander B.? And, supposing such ground to have
existed, whether this was a proper occasion for the
expression of that personal disrespect?

47. The third paragraph consists of a picture of the
patriotic and exalted "feelings" which had "dictated"
"what I (Commander B.) have done"; which feelings
are presented in honorable contrast with those which
"seem to have governed" the Consul's "official con-
-duct, whenever the wants, wishes and interests of
your (his) injured countrymen were at stake!" In
regard to the assertion herein involved concerning
the Consul's invariable official conduct, so far as
it had a seeming to Commander B:

1st. Who were the persons from whom this seeming
was obtained? In other words, who were his in-
-formants?

2nd.

2d.

2nd. What are the cases comprised in this "whenever"? That is to say, what are the cases, the Consul's conduct in which presented so flagrant a contrast to the exalted pa-triotism of Commander Babbit? What were the cases where-in the Consuls countrymen were injured; and he evinced an utter disregard to their wants, their wishes and their interests?

48. The fourth paragraph begins with an expression of Commander B's "deep regret" "that the circumstances connected with both grievances touching which we have communicated seemed imperiously to require my action".

1st. What are "both grievances" here referred to? One is that of the men of the Wm. Engs. What is the other?

2nd. What, in regard to each, were "the circumstances connected with" it, which "seemed imperiously to re-quire" the action of Commander B.?

3. What was the precise nature of the "action" on his part, which it required?

49. As part of the same sentence wherein Commander B's "deep regret" is expressed; and, (so far as can be judged from the juxtaposition of the words) as an illustration, and the only one, of his assertion about the imperiously compelling circumstances, he proceeds to say, — "it appears very clear that the Seamen of the Wm. Engs would have been held longer in the most servile and ignominious imprisonment and employment, by and for the Government of Cuba — together with other citizens of the United

United States — but for my interposition in their behalf."

1. Supposing this assertion to be true, can the fact therein asserted be regarded as one of "the circumstances connected with" the case, which called for Commander B's "action"?

2. Who were the "other citizens of the United States" here referred to?

3. What was the precise nature of Commander B's "interposition in their behalf"?

4. What effect attending that interposition was it, that he referred to in making this assertion? Was it the remission of one third of their term of imprisonment by the Capt. General.

5. If yea, had Commander B. at the time he wrote this assertion, any knowledge or intimation from Lieut. Commandant Mr. Laughlin of the Schr. Wave, or any other source, of the fact that the same remission had previously been promised to the Consul?

6. When, on the 11th of April, he wrote this assertion, that it "appears very clear" that nothing would have been done in behalf of the men, but for his interposition, did Commander B. know that the Consul had, as far back at least as the 10th of December, taken steps in behalf of the men of the Wm. Engs, and also of the Henry Clay?

Had he been informed of this in the Consul's letter of that date? Had he forgotten it? or Had he any ground for disbelieving it? If yea, what ground?

7.

7. When, in this assertion, the men are represented by Commander B. as being held in the most ignominious and servile imprisonment and employment by the Government of Cuba, and not only by it, but "for" it, was Commander B. aware that the condition and employment of the men was that precisely of any man condemned by due course of law to hard labor as a punishment? — Were these touches of his pencil intended for the information of the Consul, or were they designed for effect at home?

8. Suppose a Spanish officer, under similar circumstances, and for effect among his country men, were, in regard to Spaniards confined at hard labor at Sing-sing, to write that he had found fellow subjects of his "held in the most ignominious and servile imprisonment and employment by and for the State of New York," what would be thought of him? Would the impression likely to be produced in Spain by such a picture be a correct and true impression? Or would it be an utterly false one?

50. Of the fifth paragraph, the second sentence reads as follows: "Is it possible that it did not occur to you to hear the seamen's account of the affair before you received my letter of enquiry and remonstrance!"

In this query, Commander B., referring to his first letter, calls it a letter not only of enquiry but "of remonstrance."

remonstrance".

1. Whether the letter contain any thing whatever that can afford the slightest pretence for calling it a letter of remonstrance?

2. If it do not, whether this query do or do not involve the assertion of a falsehood?

3. If aye, — whether this falsehood, however insignificant so far as regards the fact constituting its subject matter, be not very significant when considered as an indication of the writer's regard for truth, and the reliance to be generally placed thereon?

57. The letter which, on the 11th of April 1839, he speaks of as "my letter of enquiry and remonstrance", is dated Decr. 9th 1838, and was delivered on the following day. The Consul's reply, written on the last named day, contains, in regard to the men referred to in this query put by Commander B. on the 11th of April, the following passage:

"As to the fact of the mutiny, or conflict on board the Ship, there can be no doubt. With regard to its origin, the story told by them is, I am sorry to say, but too probable on the face of it; judging from my experience of such matters. If true, the Captain ought to be now engaged in cracking stories in their stead. Upon becoming aware of their account of the affair, which was not until after their condemnation, my belief in

its

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its probability led me to take steps in their behalf, which will, I hope, be attended before long with a favorable result."

Sentence had passed upon the men on the 22nd of August. The reply of the Consul containing the foregoing passage was written on the 10th of December following: that day being the same day on which Com=mander B's. letter was delivered at the Consulate. —

1. Considering the foregoing passage by itself, without attending to the circumstances just referred to, does it, or does it not, amount to an assertion by the Consul, that he had become aware of the Seamen's account of the affair, and had taken steps in their behalf?

2. Does it, or does it not amount to an assertion by the Consul, that both of these events had happened before the receipt of Commander B's. letter?

3. Taking the circumstances into consideration, particularly that the Consul's letter containing the foregoing passage, was written on the same day on which Commander B's. letter of enquiry was sent by him to the Consulate, — is it or is it not more particularly evident that the passage amounts to such an assertion?

4. Does or does not this query, addressed to the Consul by Commander B. on the 11th of April, par=

=ticularly

ticularly when taken with the five words, — "I fear it did not," immediately following in the next sentence, amount to an assertion by Commander B., to the best of his knowledge and belief at that time, towit on the 11th of April, after he had spent about two months at Havana devoted to this subject, — that, until the receipt, on the 10th of December, of Commander B's. letter of the 9th the Consul remained ignorant of the seamen's account of the affair?

5. If aye, does this amount to an assertion by Commander B, to the best of his knowledge and belief, — that the Consul had, in his letter of Decr. 10th 1838, uttered a falsehood?

6. If aye, — what were the facts upon which this belief of Commander B. rested?

7. If facts insufficient to justify such a belief cannot be adduced, does or does not the assertion of that belief under such circumstances amount to a falsehood?

8. — If aye, — does or does not this query of Commander B. amount to the utterance of a falsehood, uttered for the purpose of wantonly casting upon the Consul the imputation of falsehood?

9. Whether, besides this imputation of falsehood, thus cast upon the Consul, there be or be not involved

=volved in this same query, the imputation also of a refusal to hear the seamen's account of the affair?

10th. Whether the particular phrase used for cast=ing this double imputation be not so constructed as to convey the idea that the Consul refused to listen to the seamen's account of the affair, until driven to do so by Commander B's. "remonstrance"?

11th. Whether this driving of a Consul to listen to the voice of his injured countrymen be or be not a praiseworthy act on the part of an officer? Whether, at least — even supposing that in committing it he has been impelled by his humane and patriotic zeal to an interference not strictly war=ranted by the exact measure of his authority — such an act be not calculated to enlist in his be=half the general sympathy of his countrymen?

12. Whether the advantage thus to be gained be or be not a sufficient motive to account, all circum=stances considered, for the falsehood involved in the use of the word "remonstrance": said falsehood being the necessary basis of this picture of a Consul com=pelled by the patriotic "remonstrance" of a Com=mander to listen to the voice of his suffering coun=trymen "held in the most servile and ignominious imprisonment and employment by and for the Govern=

=ment

-ment of Cuba"?

52. This same fifth paragraph of Commander B's. letter of April 11th 1839 proceeds as follows:

"I fear it did not; – for it appears by a communication addressed by you to His Excellency the Capt.n General – now in my possession, that so far from interfering in behalf of the Seamen, and for procuring for them a hearing in their own country, where was the appropriate jurisdiction for a trial of the alleged mutiny or revolt, you actually, and to me it seems unnaturally solici-ted from the Spanish Government, a trial of your Countrymen here, before a foreign Court, by means of strange laws and forms, in an inquisi-torial manner, and that, in a language they did not understand; thereby incurring their condemnation, and inflicting upon them a punishment cruel, oppressive and ignominious."

This passage presents matter for an infinitude of questions; among which are the following:

A certain letter from the Consul to the Captain General is here referred to by Commander B., as his sole ground for asserting that, in the face of the Consul's letter of December 10th 1838. he, Commander B, believed that it had not occurred

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to the Consul to hear the Seamen's account of the affair, until he had been driven to do so by Commander B's. patriotic "remonstrance."

Supposing this "remonstrance" to have been a reality instead of a pure fiction, it would have been contained in Commander B's. letter to the Consul of Decr. 9th delivered December 10th 1838. — The letter from the Consul to the Captain General is under date July 11th 1838: say five months before the 10th of December 1838.

1st Whether this letter from the Consul to the Captain General affords any ground for the belief, that subsequently to its being written, in the period of five months intervening before the 10th of December following, the Consul could not have become informed of the Seamen's account of the affair?

2. Supposing some ground for such a belief to be afforded by that letter of the Consul's to the Captain General, — whether the ground be so conclusive as necessarily to deprive of all weight, the assertion contained in the Consul's letter to Commander B. of the 10th December, that he had become informed of it? Is there or is there not an absolute incompatibility between the fact of the Consul's having written

that

that letter to the Captain General on the 13th of July, and the other facts alleged by him,-that he had become informed of their account of the affair, and had taken steps in their behalf?

3rd. If no such absolute incompatibility exists, is or is not the fact of his having written that letter of the 13th of July, together with the circumstances under which it was written, and the whole character of the case, of a nature to create a presumption both that he would become informed of their account of the affair, and that upon being so, he would take steps in their behalf?

4. At the time of writing this passage on the 11th of April 1839, had or had not Commander B. been informed by Lieut Commandant Mc Laughlin of the U. S. Schr Wave, or by any other person, that the Consul had, prior to the 10th December 1838, spoken to him of the case and of the steps he had taken in regard to it?

5. This passage contains the decision of a question of international law, — that in the United States "was the appropriate jurisdiction for a trial of the alleged mutiny or revolt." This mutiny or revolt was committed in the port of Havana. Suppose any offence whatever, from revolt to murder, to be committed on

board

board an American vessel in the port of Havana; and the offenders to come afterwards within the process of a court in the United States, and to be arrested on the charge of revolt or murder: — is there one that would hesitate, so soon as it appeared where the act had been committed, to order their immediate discharge, on the ground of want of jurisdiction? If aye, upon what principle of the law of Nations would jurisdiction be entertained? Could this be done otherwise than through a departure from those principles; and this so manifest a one that no Court would harbor the thought of committing it, but for the special authorization contained in an act of Congress, (March 3d. 1825, §5.) wherein, upon the face of the enactment conferring this authority, besides the proof afforded by the very necessity of such an enactment, is stamped the further proof of its character as an innovation upon the course of things resulting from the operation of general principles, in the shape of the proviso which it was indispensable to add, involving a recognition of the preëxisting foreign territorial jurisdiction, and of its continued rightfulness and conclusiveness when exercised.?

6. — In

with

with plenary authority to that effect: — would the course pursued by him be, in any one of its particulars, otherwise than utterly unjustifiable?

11.— If there be any one of its particulars, in which it is otherwise than utterly unjustifiable, what is that particular?

53.— The only paragraphs of this letter remaining to be noticed are the Sixth, and the tenth, which is the closing one.

Of the first of these two, the object is, to make an appeal "to my Government and to my fellow-citizens at home", "to say whether my interference in this respect was not imperiously demanded"; in the course of which appeal the want of "patriotism" on the part of the Consul is contrasted with the overflowing abundance thereof in the bosom of Commander Babbit.

1. Does or does not this defensive appeal betray a consciousness on the part of Commander B. that his course here would be made the subject of complaint by the Consul?

2. If aye, was this consciousness founded upon any communication to him made, of the Consul's intentions in this respect? or did it rest upon the presumption created by

Commander

Commander B's. own consciousness that he had been guilty of an "interference", which the Consul could not but have him called to account for; and his only possible justification for committing which could rest upon nothing short of the fact that it had been "imperiously demanded"?

The tenth or closing paragraph begins as follows: "In conclusion, allow me to assure you!

1. What is the subject matter of the assurance here offered to the Consul? Is it or is it not the exalted patriotism of Commander Babbit; and his generous self-forgetting devotion to his "injured countrymen" and "national flag"?

2. Was there, or was there not, any possible end or aim, whether connected with the "Public Service", or of any kind, to be effected by Commander B's. offering this assurance to the Consul?

3. If nay, – what end could he have in view in writing this paragraph? Could it have been anything else than to assure "my Government and my fellow citizens at home", how vastly patriotic Commander B. is?

54. In the month of April 1839, a letter went the rounds of the newspaper press, taken from the Baltimore patriot, to which it seems to have been

been written under date "U. S. Ship Boston, Havana April 7th. 1839. — To the mention contained in this letter, of the arrival of "this ship from Pensacola in 60 hours," is appended the addition, that she "came to anchor in her usual fine style." Also, that the Captain General "has approved in a great measure, the wanton outrage committed upon Purser Southall," and that the ship will in consequence "be detained here several days."

1. Whether this letter was written by an officer of the Boston? If aye, by which of them? If nay, was it written on board, by Dr Bunstead or Ferdinand Clark, or by whom?

2. If by one of the officers, or some special friend, — is it usual for officers of the American Navy to give, or get given, puffs to the coming to of their Ship "in her usual fine style"?

3. If nay, what particular cause existed in regard to the Boston, to require a departure from the practice of the American Navy? Was it a consciousness of the needfulness of such artifices in her case?

55. Immediately after the arrival of the Boston at New York, there appeared in that city and in various

other

other parts of the United States sundry newspaper attacks upon the Consul of the United States at Havana. — Among them were two in the New York Times of May 3. and May 4. 1839: the first being editorial; the second consisting of a letter dated Havana, April 13. 1839, prefaced by some editorial remarks, vouching for the authenticity of its source.

1. Was Commander Babbit, or Purser South-all, or any other officer of the Boston a party to the writing of said letter or of said editorials?

2. Was either of them privy to the writing or publishing of the same?

3. If aye, by whom were they written?

4. If not a single officer of the Boston was either party or privy to the writing or the publish-ing of either: then, — Was any portion of the ma-terials on which the allegations against the Consul rest, furnished by Commander B. or Purser Southall, or any other officer of the Boston?

56. In the editorial of May 3, the following assertions occur in regard to the Consul, towit:

1. That, "in violation of law and his Consular powers, he throws masters of American vessels into

Spanish

Spanish dungeons."

2. That he "keeps them there for half a year."

3. That he "makes false official statements."

4. That "when addressed by the Commander of a public vessel, whose good offices have been invoked in favor of the Consul's victim, he returns the insulting answer that <u>too much of his time has been taken up in the affair already</u>."

5. That a petition for his removal "has been signed by every American resident in the island of Cuba", and also "by Captains of vessels and traders at the several ports."

6. That "Mr. Trist says that <u>Martin Van Buren Dare not turn him out</u>."

These assertions present the following points for enquiry, tourt: ?

<u>Assertion No. 1</u>

1. Whether it be true or untrue, that any master of an American vessel has been thrown by him into a Spanish Dungeon ?

2. Among the cases which may be referred to, to substantiate the allegation, and in which the Consul was, in one sense, instrumental in getting the master imprisoned: — Whether there be one, in which, without

proving

End.

proving in a most flagrant manner and in a most atrocious degree, a traitor to the trust reposed in him as the protector of seafaring men, he could have pursued a course different from that which he did pursue?

3. If there be such a case, in what particular or particulars was it, that his course could have been different?

4. If any such particular or particulars be specified, to what result, both as regards the individual case in question and also general consequences, would his course as thus modified have led?

Assertion No. 2:

1. What ship-master has he kept in prison, for half a year, or for a single day?

2. If there be any case of the kind, in what mode, by what means, has the Consul kept him there or caused him to be kept there?

3. Whether this assertion be true or false?

Assertion No. 3:

1. What false official statement has he made?

2. In what particular or particulars is it false?

3. With regard to every such particular, in what consists the evidence of its falsehood?

4. Whether this assertion be true or false?

Assertion No. 4:

This assertion has evidently reference to a passage

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in the Consul's letter to Commander Babbit, under date December 10th. 1838; and the "Consul's victim" here referred to is evidently Captain Wendell of the Brig Hremlar. Speaking of this individual and another, the Consul says: "they have already taken up so much of my time, that it is impossible for me to bestow any upon them on the present occasion, further than to assure you that nothing that they can utter is deserving of the least credence."

1. Whether — considering this passage by itself, without attending to any of the circumstances of the correspondence between the Consul and Commander B. — its import be or be not truly stated in this newspaper allegation?

2. If nay, — whether the untruth of the Statement be or be not greatly aggravated by taking the circumstances into view?

3. If aye, — Whether, under the circumstances in which the material for this allegation was obtained by the newspaper editor, Commander B. and any other officer of the Boston who may have taken part in the business are not to be deemed the real authors of the falsehood?

4. Whether or not the portion of the Consul's time consumed by the case of Captn. Wendell, as shewn

shewn by the documents in that case, had or had not been sufficient to justify and to require a determination on the part of the Consul, to defeat the evident plot on the part of Clark, Bumstead &c., to involve him in a correspondence on the subject with the commander of every vessel of the U. S. Navy who might visit Havana?

Assertion No. 5:

1. Whether this petition, "signed by every American resident in the island of Cuba," be or be not signed by the principal American merchants established at Havana?

2. By what American merchants it it signed? And what is the standing of each?

3. Whether it be or be not signed by the Captains of Vessels most likely to be acquainted with the character of the Consul: for instance, those of the regular New York packets?

4. Whether it was or was not got up by the confederacy against the Consul, whereof Ferdinand Clark, Dr. Bumstead, George M. Selden, Oramel H. Throop, Captains Abraham Wendell and Jacob S. Howell, and a few other individuals of the same type are the soul: indeed the only active members?

5. Whether there be among all the signers so many as a dozen individuals who have ever been

been parties to any transaction of any kind with the Consul, or so much as heard the sound of his voice?

6. Whether there be a single one, who can bring against the Consul a single definite allegation, which, if enquired into, will not redound to his credit as an officer and as a man?

Assertion No. 6.

1. Whether he was ever heard to make this remark in so many words?

2. Whether there be any other ground for this assertion than the remark made on several occasions by the Consul, when informed of the memorials, ~~against him,~~ which for three years had been getting up against him by Clark, Bunstead & Co. and which the excitement produced among American ship-masters and other citizens, ignorant of his character, by floods of falsehoods in regard to the cases of Captains Wendell and Howell, had been seized upon as a pretext for renewing: which remark was, — that he was personally known to the members of the Administration; and consequently such stupid inventions with regard to his character and conduct could produce no impression there whatever. But that if it were otherwise, — if he were not known to a single individual at

Washington,

Washington, and if they were all personally inimical to him, still, the ground upon which he stood with regard to these cases and to this whole subject, was such, that No Administration acting under the eye of the American People, would, even if they were capable of feeling so disposed, dare to withold an emphatic support from it?

57. The Editorial of the New York Times of May 4th 1839, promises "to treat our readers" with a "full expose of Mr. Consul Trist's official conduct".

1. Was Commander Babbit or Purser Southall or any other officer of the Boston, a party to the drawing up of this "expose"?

2. If not a party, was any such officer privy thereto?

3. If aye, by whom was it drawn up?

4. Was any such officer a party or privy to the communication of this expose to the editor of the Times?

The letter to which this editorial is an introduction is therein affirmed to be "from an authentic Source".

5. Who was the source here referred to?

6. Did the editor receive his assurance of its being "authentic" from Commander B. or Purser Southall, or any other officer of the Boston?

58. The letter itself, under date Havana April 13. 1839, contains the following averments:

1. That the departure of Commander Babbit "will be deeply regretted by every American at Havana".

2. That he is a "distinguished and benevolent officer".

3. That he "has rendered very important services to the Americans incarcerated here and undergoing punishment."

4. That "the crews of several American vessels are still suffering in a Spanish prison".

5. That their being in that condition is owing entirely to "the neglect and pusillanimous behaviour of the United States Consul."

6. That among these "crews" is that of the American Ship Wm. Engs.

7. That the crew of the Ship Wm Engs "are still in chains suffering punishment at hard labor." That they are unjustly so. That they are thus held in chains at hard labor "on an accusation of mutiny in this harbor."

8. That Captain Babbit did receive "a communication from several hundred Americans."

9. That in consequence of this communication (and, therefore, after it), he "applied to the United States

States Consul for information respecting various Americans in prison and undergoing punishment".

10. That Commander B. did not receive "satisfactory facts in relation thereto."

11. That, "on the contrary, he was given to understand that his cooperation was neither solicited nor required."

12. That the United States Consul "refused to give" to Commander B. the "information" which he applied for.

13. That Commander B. did thereupon (that is to say, upon receiving the Consuls said refusal) "immediately address himself to the Capt.n General for that information which the Consul had refused to give."

14. That one of the facts elicited in the case of the Wm. Engs was, that the ~~Consul~~ did not send the men of that Ship to the United States.

15. That another of these elicited facts was, that "on the 11th of July the Consul wrote to the Captain General, asking a speedy trial by the Spanish laws."

16. That another was, that the men of the Wm. Engs often wrote to the Consul "requesting his protection and stating they were Americans."

17. That another was, that notwithstanding

these

these calls upon the Consul, he "would not be present," — he would not "see that justice was done them" — he would not "assist them in any way."

18. That another was, that the men "were not allowed an advocate."

19. That another was, that the men were not "permitted to produce witnesses favorable to their cause."

20. That after eliciting these facts, Captain Babbit "applied to the Captain General to deliver the seamen over to him to be carried to the United States for trial."

21. That he was determined to this step by the joint force of two reasons: 1st. That he perceived "that the Consul would not interest himself in behalf of innocent men;" 2nd. — That he was "importuned by several hundreds of Americans."

22. That Captain Babbit's application for the delivery of the men "was refused."

23. That "Captain Babbit and his officers have acted Nobly. — They have interested themselves in every honorable way to deliver these men."

24. That "this morning Captain Babbit visited

visited the Royal Prison at the Punta, and after enquiring of the American prisoners the cause of their imprisonment, he assured them he was ever ready to render "such assistance as their case merited."

25. That Captain Babbit "proceeded with Purser Southall and Mr. Ferdinand Clark to the Cabanos," (Cabaña) "where the Governor of the Castle brought before them such Americans as were there."

26. That "for a long time we have been expecting another American Consul."

27. That "it is believed that when the United States Government receives all Captain Babbit's documents in relation to the present occupant, that there will be no further delay in forthwith sending to this port a Consul whose abilities and experience will protect the interests of his countrymen here."

28. That Captain Babbit has written to the Consul in the severest terms.

29. That he has done so because he was compelled thereto by the conduct of N. P. Trist "in the affair of Purser Southall and others."

30. That "the whole correspondence will

be

be laid before the Government."

31. That consequently "we may soon expect some important result."

32. That "the Americans here are well satisfied that the present Consul has an unfriendly feeling towards his countrymen."

33. That "it is hoped by all that he may be speedily removed from this important post."

These averments present the following points for enquiry, tourt:

Averment No. 1:

1. Do the facts of the case afford any ground for believing that it was, or could possibly be, true, that the departure of Commander Babbit was "deeply regretted by every American at Havana"?

2. Do they warrant the belief, that his departure was, or could possibly be, a source of regret to any American, knowing anything of his conditioni and deportment, who, himself, was otherwise than totally insensible to the degradation of the American Navy?

Averment No. 2:

1. Who are "the Americans incarcerated here and undergoing punishment," to whom he "has rendered very important services"?

2. With regard to each of these, what is the

precise

precise nature of the service or services rendered?

3. With regard to each of these services, was it of a nature to be rendered by the Consul?

4. If yea, was it, or was it not, in the way of being rendered by him?

5. Considering this averment under the aspect imparted to it by the general tone and drift of the letter, to-wit: as presenting Commander B's conduct in this particular in favorable contrast with that of the Consul, is the averment true or is it false?

Averment No. 4:

1. Which are the "several" crews "still suffering in a Spanish prison"?

Averment No. 5:

1. In regard to each of these crews, how is it that its being in prison is owing in whole or in part, to "neglect" on the part of the Consul?

2. In regard to each of these crews, how is it that its being in prison is owing to "pusillanimous behaviour" on the part of the Consul?

3. What instance is there, in which the crew of an American vessel, or any mariner of any grade, or any American Citizen of any calling, has suffered imprisonment or detriment in any shape, through "neglect" or "pusillanimous behaviour" on the part of the Consul?

4. What instance can be adduced, in the whole course

course of the Consul's life, as an officer or as a man, in which any human being has suffered through "neglect" on his part, or in which he has behaved "pusillanimously."!

5. When the U.S. Sloops of War Concord, Commander Mix, and St Louis, Commander Paine, were at Havana in April 1837, was a communication from an American citizen by the name of George M. Selden, received on board the St Louis, (and by her commander sent for the perusal of Commander Mix, with whom the Consul chanced at the moment to be,) just as the two ships had got out of port for Pensacola: the object of which communication was to call the attention of the said Commanders to certain American seamen, alleged to be in confinement at Havana through the tyranny or neglect of the Consul? And does the matter and tone of that communication constitute proof that there was, as far back at least as that date, a sufficiency of malignant prying into the acts of the Consul to insure against his escape from any just ground of censure in this respect? (The communication in question will probably be found on file at the Navy Department. It related particularly, perhaps altogether, to two seamen who, having deserted in this harbor from the Frigate Constellation, had been taken up an hour or two after upon a charge of theft; and whose case had dragged along very heavily in the tribunals, in spite of repeated efforts on the part of the Consul,

through

through General Tacon, to have its progress accelerated.)

Averments Nos 6 & 7:

1. The statement that the crew of the William Engs are held in chains at hard labor "on an accusation," is it a truth or is it a falsehood?

Averments Nos 8, 9, 10, 11, and 12:

1. What is the date affixed to the "communication from several hundred Americans" here referred to as having been received by "Captain Balbit"?

2. At what date was it received by Commander Babbit? From whose hands was it received? Where? In whose presence?

3. By how many "hundred" americans was it signed?

4. The date when it was received by Commander Babbit, was it prior to the 9th day of December 1838, the date of his first letter to the Consul?

5. If yea, why was no reference or allusion made to it in said letter? In the averments now under consideration, it is stated to have been the moving cause for addressing that letter to the Consul: In a case of this nature is it fair, just or proper to withhold from the officer called upon all knowledge of a circumstance so calculated to impress upon him the necessity of his bestowing his most serious consideration upon the subject?

6. If the date when this "communication from several hundred americans" was received by Commander Babbit, be not prior to the 9th day of December 1838, — then how could it have been the moving cause of the application here stated to have been made by him "to the United States Consul for information respecting various Americans in prison and undergoing punishment"? (The only application of the sort ever made by Commander B. being that contained in his letter of that date.)

7. If the date when this "communication from several hundred Americans" was received by Commander B. be not prior to the 9th day of December 1838, — then, is or is not the account of his doings and motives and those of the Consul, which is comprised in these averments, radically false, and false throughout?

8. If yea, then, supposing Commander Babbit and Purser Southall, or either of them, or any other person possessing a knowledge of the truth, to have been in any way a party or privy to the writing or to the publication of this account, is he or is he not guilty of a deliberate and malicious falsehood, of the very deepest baseness?

Averment No. 12:

This averment affirms two things: 1st. That Commander B. applied for "information"; 2nd. That the

the Consul "refused to give" information. — The part of the correspondence between Commander B. and the Consul, to which this averment, as well as those immediately preceding it, has reference (and the only part of it to which it can have reference) is, Commander B's first letter and the answer thereto: said first letter being the only one in which there is any call for information.

1. Is or is not this averment a falsehood?

2. If nay, upon what occasion did the Consul, in reply to a call for information, refuse to give information?

Averment No 13:

Still referring to the two letters just mentioned, this averment asserts that application was "immediately" made by Commander B. to the Captain General.

It is very obvious that if the circumstances were such as to call for such an application at all, it was Commander B's. duty to make it "immediately". Hence therefore, an obvious motive in the person or persons who drew up this statement for the assertion that the application did take place "immediately." The word is not to be passed lightly over, as one that might have been used through mere carelessness or exaggeration. It is a substantive and most material part of the averment, and one, of which the truth or untruth is most important.

1. Under what date did Commander B. address this application to the Captain General?

2.

2. On what day and hour was this communica-
-tion delivered to the Captain General?

3. Was or was not this date such as, when compared with the morning of the 11th of December, (when the Consul's letter of the 10th was delivered) to justify this assertion, that the step of applying to the Captain General was taken by Commander B. "immediately" upon his "having been given to understand that his cooperation was neither solicited nor required"?

4. Had Commander B. come to the determination to make this application to the Captain General, so early as the 5th of January, 1839, the day after the re-
-turn of the Boston to Havana? (on which day the Consul received a visit from Commander B, accom-
-panied by Purser Southall, - had the offer made to him to take charge of his communications for Pensa-
-cola, and was informed that the Boston would not stop more than a day or two.)

5. If not so early, had it been formed when Com-
-mander B's. letter of January 11th was written, ending "I shall leave here tomorrow or next day for Pensa-
-cola" &c?

6. If not then, had it been formed so early as the 16th of January, when Commander B's letter of that date was written, which left upon the Consul's mind the impression that it was a farewell shot from Commander B, and that now he might be

considered

considered as almost off?

7. If the date at which it was formed can be ascertained, how does this date tally with all the assertions and averments involved in the various statements relating to Commander Babbit's difficulties at Havana, to the publication of which Commander B. or Purser Southall may appear to have been a party?

Averment No. 14:

1. Supposing it to have been the wish of the Consul to send the crew of the ship Wm Bugs to the United States for trial, — was it or was it not in his power to do so? Does or does not the reply of the Capt.n General, under date July 14.th 1838, to the Consul's first letter, conclusively prove that it was not optional with the Consul to send the men to the United States for trial? Does or does it not prove that the authorities of the country considered the men as being in their custody, and that it belonged to them to try them?

2. Supposing it to have been optional with the Consul to have the men kept lying in prison at Havana until a fit opportunity should occur for sending them to the United States, would it have been proper for him to do so under the peculiar circumstances of the case? The reasons assigned by him in his letter to the Capt.n General

under

under date July 11th 1838, for pursuing a con-
-trary course, are or are they not satisfactory?

Averment No. 15:

1. How was this fact "elicited"? What were the means employed for obtaining a copy of this letter of the Consul to the Captain General? Who were the persons consulted on this point by Com-
-mander B, or for him by Purser Southall? To whom was the Consul's letter shewn? And what were the several opinions expressed of it as an instrument for injuring him?

Averment No. 16:

This averment, as set forth in the letter com-
-prises three distinct assertions, to wit: 1st That the crew of the Wm Engs "often wrote" to the Consul "requesting his protection and stating that they were Americans;" 2nd That these letters did come into the Consul's hands; 3rd That they did come into his hands before the trial of the men took place?

1. Supposing all this to be true, would it or would it not constitute a sufficient ground of crim-
-ination against any part of the course pursued by the Consul on the subject?

2. If yea, what is the part of his course that is criminated thereby?

But these assertions are to be considered also

in

in another point of view: as assertions put forth by Commander Babbit, or by Purser Southall, or by some one authorized by him. In this point of view they are highly important, as illustrating the mode and spirit of the whole proceeding.

These facts were "elicited" by Commander B's investigation of the case: How? Upon what evidence does their assertion rest?

3. What evidence did Commander B. possess, that the crew of the Wm Bugs "often wrote" to the Consul?

4 What evidence did he possess that these letters ever came into the Consuls hands?

5 What evidence did he possess that they had come into his hands before the trial took place?

6 What evidence can be now adduced that previously to making or authorizing this averment as criminative of the Consul, Commander B. ever bestowed a thought upon either of the two points, — whether the letters ever came into the Consul's hands, — and whether they did so before the trial?

7. From all the materials collected at Havana, is it now possible to determine either of these two points: or so much as the date of any one of the alleged letters, or of the trial of the men?

Averments Nos 17. and 18:

From the manner in which these averments

are

are drawn up they involve the assertions, — 1st. that the Consul was called upon to "be present" at the trial or judicial proceedings, to "see that justice was done them" and to render to them the assistance which their case required, 2nd. that it was optional with him to do all these things, — 3rd that there was not only an omission but a positive refusal on his part, to do either, — 4th that his refusal was rendered more barbarous from his knowledge that "they were not allowed an advocate, nor were permitted to produce witnesses favorable to their cause." The imputation of such refusal to him as a dereliction of official duty implies, that it is one of the duties of an American Consul to "be present" at judicial proceedings in regard to American mariners charged with revolt or mutiny on board their vessels.

1. To begin with the last proposition, and supposing it to be, by the laws of the country, optional with the Consul to "be present" on such occasions, the enquiry still remains, is it his duty so to attend? Where is this duty prescribed to American Consuls? Is it compatible with the other duties of the office, or with the general character and pursuits of the persons who hold it, that this should be among its duties? How many Consulates are there which yield a support to the incumbent: so as to supersede the absolute necessity under which he must otherwise be

to

to follow some other calling for a subsistence? In the cases where this necessity exists would it be practicable for the incumbent to leave his business engagements for the purpose of following up judicial proceedings? But even in those where it does not exist, its non-existence can arise from no other cause than the quantity of business despatched in the consul's office. And, if he should be under the necessity of giving his attendance upon tribunals, who is to despatch that business? Whilst he shall be at court, who is to enter and clear vessels, receive protests, and do the hundred things for which the Consulate is resorted to? The Vice-Consul! But, suppose the emoluments to be just sufficient for the Consul's own support: how is he to have a Vice-Consul? Or suppose the amount of business and the emoluments to be ever so great, and the Consul to be so intent upon making money as to choose to do all the work of the office himself; dispensing with the assistance of a Vice-Consul: where is the law or the regulation requiring him to employ such a substitute? And without one, how is it possible for him to be, during office-hours, any where but at his Consulate? But if there be a duty of this kind attached to the Consul's office, what is it that restricts it to mariners? or to criminal proceedings? Why should not any American citizen who may, in any way, become

involved

involved in legal proceedings of any sort, criminal or civil, have the same right to call upon the Consul to "be present and see that justice be done him"? And supposing the right to exist, how much would it profit any one? From the general character, pursuits and acquirements of the persons holding the office, what likelihood is there of the Consul's constant presence in court being of the slightest imaginable benefit to the party calling him there? Supposing him to understand the language of the country, what likelihood of his comprehending a word of its law jargon? And supposing a knowledge of the language of the country to be sufficient, where is the law or regulation requiring that a man shall, before receiving a Consular appointment, possess this indispensable qualification for the duty of being present at judicial proceedings?

But, apart from these considerations, and supposing it to be one of the duties of a Consul to "be present," the truth of these assertions still remains for enquiry.

2. What evidence is there that the Consul ever was, as it implied in this Statement, called upon to "be present," or to render the crew assistance?

3. What evidence is there that it was optional with him to be so? Is it or is it not true that, had he been ever so desirous to be present, this was forbidden by the Laws of Spain, as construed by her Authorities at Havana?

4. If it was out of his power to be present, was

there

there any other way in which it was in his power to render assistance to the men in regard to the proceedings against them? Had he a right to employ counsel to defend them? Is this not expressly forbidden by a standing instruction?

5. Supposing it true that "they were not allowed an advocate, nor were permitted to produce witnesses favorable to their cause," what evidence had commander Babbit that this was (as the averment implies) known to the Consul; and known to him, too, at the time when he refused to be present, or to render the men any assistance?

6. Upon what evidence was this assertion made that "they were not allowed an advocate"?

7. Upon what evidence was the assertion made, that they were not "permitted to produce witnesses favorable to to their cause"?

Averments Nos. 20 and 21:

The step of making application to the Capt.n General for the delivery of the men of the Wm Boys is here made to rest upon two grounds: 1st. Commander B's. conviction "that the Consul would not interest himself" in their behalf; 2nd. his being "importuned by several hundreds of Americans."

1. Admitting the whole history of the case, as given in this letter, to be true down to the moment when Commander B's investigation into it commenced, the question still remains, — whether it be true that, at the date when commander Babbit made his application for the men to the

Capitan

Captain General, he had sufficient reason to be satisfied that it was the determination of the Consul not to interest himself in their behalf?

2. If he had such sufficient reason, of what did it consist? What disproof did he possess of the assertion contained in the Consul's reply to his first letter, that he was engaged in exertions in their behalf?

3. He was 'importuned by several hundreds of Americans.' What was the precise number? and how many "hundreds" did it contain?

4. In what precise shape did this importunity present itself?

Was it in that of a written address?

5. If yea, what was the date of that address? And how does this date compare with that of the application made by Commander B. to the Captain General for the delivery of the men?

6. By whom was this address written?

7. By whom was it headed? What persons in particular carried it about for signature? Was one or more of the Boston's boats placed at the disposal of those persons or either of them, for the purpose of enabling them or him to collect signatures?

Averment Nos. 23, 24, and 25:

1. In the first of these it is asserted that, not Captn Babbit alone, but 'his officers' likewise 'have interested themselves in every honorable way to deliver these men':

men." In what ways was it that any officer of the Boston except the Commander could take any part in efforts to deliver these men.?

2. Is or is not this picture — when considered as a production, to either the composition or the publication of which Commander Babbit, or Purser Southall or any officer of the Boston was a party — a most sickening specimen of self glori=fication, that would be utterly unworthy of any officer of the American Navy; even if it stood alone, and not as a thing to set off the grossest falsehood and calumny against another officer of the government?

Averment No. 26:

1. Who are the individuals meant by "we" in this assertion?

2. Do they include Mr. Ferdinand Clarke, Dr. Bumstead, Mr. George Mc. Selden, Captain Wendell, Captain Howell and Col. O. H. Throop?

3. Was the term meant to embrace all the American citizens resident at Havana? If yea, which of these residents besides those just named, can Commander B. or Purser Southall specify by name, as having to their knowledge, concurred in this expec=tation?

Averments Nos. 27, 28, 29, 30, and 31:

1. If this communication was not written by Commander B. himself, or if he were not a

party

party to it, how came the writer to know about "Captn. Babbit's documents in relation to the present occupant," — that "the whole correspondence will be laid before the Government," — that these documents were of a nature to produce the immediate removal of the incumbent, — that "Captain Babbit has written to the Consul in the severest terms," — that he has done so because compelled thereto by "the conduct of N. P. Trist in the affair of Purser Southall and others"?

2. In "the conduct of N. P. Trist in the affair of Purser Southall," was there any thing to "compel" Captain B. to write to him in the severest terms? Was there any thing to justify him in so doing?

3. What affairs are they which are here referred to by the words "and others"?

Averments Nos. 32 and 33:

1. What ground did Commander B. possess for making or authorizing either of these assertions? "The Americans here" means the entire body of Americans: and "all" means without any exception. What reason had he to believe that either was true with regard to the principal American merchants at Havana?

2. Did Commander B's grounds for these assertions consist of the address made to him?

3. If yea, was the way in which signatures to that address were obtained, so far as this was known to Captn. Babbit, of a nature to justify him in founding upon

that

that address such assertions with regard to the Consul's standing among "the Americans" at Havana?

59. The Richmond Enquirer of May 14. 1839. p. 4 Column 2. at bottom contains an article from the Norfolk Beacon as follows:

"There have been various rumors respecting the difficulties which Capt.n Babbit of the Sloop of War Boston has encountered in Havana. It was said that he could get no redress for the outrage committed on Purser Southall, and that our Consul at Havana threw obstacles in his path, when he interfered in the case of certain American seamen now confined there in prison." XXXXXX

"At all events, it is well to suspend judgment until both parties are heard. It is probable that the writer of the letter from Havana in another column has been too much excited to form a correct opinion on the subject."

1. Is it true or is it false "that our Consul at Havana threw obstacles in his path, when he interfered in the case of certain American seamen now confined there in prison"?

2. Did the editor of the Norfolk Beacon obtain his knowledge of these rumours, directly or indirectly from Commander B., or Purser Southall, or any other officer of the Boston?

3. If yea, — in what way were they communicated to him: by letter, or orally?

4. "the letter from Havana in another column": was it the same letter, under date April 13th, that appeared

in

in the New-York Times of May 4th ?

5. Whatever it may have been, was its publication in the Beacon suggested, directly or indirectly by Commander B, or Purser Southall, or any other officer of the Boston ?

60. In the New York Evening Herald of June 15th 1839, appeared a long editorial article, headed "The United States Consul at Havana."

This article professes to be an exposé of "the four specific charges against Mr Trist"; and to present a digested view of "these four cases": "all the facts" being "before us."

1. Was Commander Babbit or Purser Southall, or any other officer of the Boston a party or privy to this publication ?

2. If nay, from whom did the writer obtain his materials ?

3. By whom was the article written ?

4. Did the writer, or the publisher of the Herald, or any one else, receive from Commander B., or Purser Southall or any one else, a pecuniary compensation for writing it, or for publishing it, or for procuring its publication

61. The ~~~

said article commences as follows:

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MORNING HERALD.

SATURDAY, JUNE 15, 1839.

The United States Consul at Havana.

The conduct of Mr. Trist, the United States Consul at Havana, has been of so extraordinary, and, as we think, improper a character, as to call for the immediate interference of the Executive of this country, and the instant removal of Mr. Trist from the station he at present occupies. Grievance after grievance, and abuse after abuse, have multiplied so fast in the consulate department of Mr. Trist, within the last year, as to call for instant action on the part of our government, with a view to rectify the abuses complained of.

Some few of the outlines of the grievances have already been detailed by us, but the four specific charges against Mr. Trist are these:—

1. The imprisonment of Capt. Wendell, of the brig Kremlin on a groundless charge.
2. The imprisonment of Capt. Love Straw, of the brig Sarah Ann Alley, on a frivolous charge.
3. The severe punishment of the seamen of the ship W. Engs, without sufficient cause.
4. The justification of an outrageous assault upon Mr. Southall, the purser of the U. S. ship Boston, by a Spanish sentinel.

And although all these four affairs were not commenced by the Consul, yet he has aided and abetted their perpetration by every means in his power, and refused the injured parties any redress.

We have all the facts of these cases before us, but they are too voluminous to be given in full—the principal features are as follow:

Case of Captain Wendell:

Capt. Wendell had a very drunken mate, who left his vessel at Matanzas; the Captain properly refused to pay him his wages on this account. Mr. Trist demanded an advance for three months of the mate's wages from Capt. W.; the latter refused, and the Consul had the Captain imprisoned in a dirty cell, *amongst felons of all classes*, whence he was only released at the interference of Capt. Babbitt, of the United States sloop of war Boston.

Case of Captain Love Straw:

Capt. Love Straw was imprisoned upon a groundless charge of robbery, under equally frivolous and vexatious circumstances, and could get no redress from the Consul.

Case of the crew of the Wm. Engs:

With regard to the seamen on board the W. Engs, it appears that the ship's company were shipped at Liverpool without signing articles—they were to go to Havana, and thence to New Orleans; after the arrival of the vessel at Havana, her destination was changed to some port in Europe; the men refused to go the European voyage, or to do any more work after the change in the vessel's course; an altercation ensued with the master; he and the Consul applied to the Government at Havana to have the men punished by the laws of Cuba, although the alledged offence was committed on board of a United States vessel; the men were taken by soldiers, and with a mere mockery of a trial sentenced to 2 and 4 years hard labor with felons; they were not allowed to hear the testimony against them, employ counsel, or say any thing in their defence; and all these steps were taken at the solicitation of Mr. Trist, whose duty it was to protect them. Here is the concluding sentence of his very unique letter to the Captain General of Cuba; he knew that the men were only amenable to the laws of the United States, yet he says:—"Instead of begging of your Excellency that they may be kept prisoners at my disposal, I think it my duty to follow a contrary course, so that the outrage which *would prove to have been* committed against the laws of this country might be punished in the manner they may think most proper." This letter was written July 11th, 1838.

Case

Case of Purser Southall:

In the case of Mr. Southall, the purser of the Boston, the outrage was of a most shameful character. Mr. Southall, with his friend, Mr. Sturges, on the 3d. of February last, went on shore from the Boston, hired a volante, and drove towards the Tacon Theatre. Just outside the walls, the volante was stopped by the sentry, and ordered back; Mr. Southall and Mr. Sturges were compelled to get out of the volante and pay for it, when it returned to the city. Mr. S. was then proceeding to tell the sentry that he was an United States officer, and wished to visit the Theatre, when the mounted guard charged upon him, endeavored to ride over him, and stabbed him in the neck with a lance, and subsequently stabbed him in the hand. An immense crowd collected around the parties, crying out, "American! American! kill him! kill him!" On purser Southall representing the simple facts of the case to his commanding officer, Capt. Babbit, that gentleman very properly represented the case to the Captain General and Lieutenant Governor of Cuba, demanding an instant investigation into the affair, and that the offending dragoon guard should be punished. The Lieutenant Governor, it appears, was perfectly willing to comply with this request; but it also appears that in the interim, Mr. Trist, the Consul, saw the Governor, and told him that the purser was to blame; he also defended the outrageous conduct of the Spanish soldier towards an officer of the country whose interests he was placed in Havana to protect; and from his misrepresentation, truckling conduct to the Spanish authorities, and underhanded influence, the soldier was permitted to go comparatively unscathed, Mr. Southall obtained no redress for the wrongs done him, and thus the flag of the United States, and through it, the honor of this country, was insulted and trampled upon.

1. Is any one of these four cases truly stated?

2. If yea, which of them?

3. Does any one of these four statements contain one single averment which is not either absolutely false as rendered so by its connection with the rest?

4. If any such true averment be contained in any one of them, which is it?

5. The statement of the case of Captain Wendell closes with an assertion concerning a subject, of which Commander B. did possess personal knowledge of the most positive kind; and concerning which, therefore, any statement directly conflicting with the truth deserves the most pointed attention. Is it true or is it false that Captain Wendell was released at the interference of Captain Babbit?

6. At what date was he released? Was this date prior or subsequent to the return of the Boston to Havana, on the 5th of January 1839? If prior, had Commander B. previous to his departure from Havana on the 11th of December 1838, taken any step towards obtaining said release? If yea, in what did that step consist, and at what precise date was it taken? (Capt.n Wendell's release took place on the . It was doubtless hastened by the Consul's interview with the Captain General, reported in his letter to the Secre- tary of State of December 10th '38. — To the best of the Consul's knowledge and belief, Commander B. had no more to do with this event than with the striking of the great gong at Pekin on the same day.)

7. Where did the writer of the article obtain what he calls the "very unique letter" of the Consul to the Captain General on the subject of the crew of the William Engs?

8. With regard to the case of Purser Southall: is the Purser's adventure with the Lancer truly stated?

9. Supposing it to be so, is or is not the state- ment of the case in its second stage a fiction from beginning to end?

10. Had any "Lieutenant Governor" any thing whatever to do with the case? Or was there any other Spanish Officer who had in it the agency and the disposition here ascribed to the person spoken of

as

as the "Lieutenant Governor"?

11. Is it true or is it false that Mr Trist "told him (the Governor) that the purser was to blame," or ever made any remark to that effect to the Governor, or to any other Spanish Officer, or to any other person whatever? If true, at what time was it made? At what place? To whom? In whose presence? What were the circumstances that led to the remark? In what words was it made?

12. Is it true or is it false that Mr Trist "also defended the outrageous conduct of the Spanish soldier towards an officer of the country whose interests he was placed in Havana to protect"? Does any pretext whatever for any such assertion exist, except the Consul's saying to two American citizens, (and possibly two or three more, though he does not at this moment recollect any others) Dr. Ballard of Louisiana and to Mr Samuel P. Sturgis of Boston, the latter of whom had been the Purser's companion on the occasion, that the account which he (Mr Sturgis) gave of the position of the parties, and of the mode in which the Purser held up his hand <u>with a cane in it</u>, although it might have been without any design on his part to strike, went to confirm the Lancer's alleged reason for striking, tourit: that a cane was at the moment raised upon him?

13. All mention by the Consul of this account of the affair was confined to a few American

citizens

citizens and other enquiring foreigners. But suppose that the lancer's case had taken such a course as to require that this most vital testimony, received through the Consul's own ears and eyes from Mr. Sturgis's lips and gestures, and again heard from the lips of several other persons who had received it from him on other occasions, (although 'tis said to have been omitted by him when subsequently called upon to state what he knew of the matter before the Spanish authorities,) should be made known to the authorities, to save the soldier from being shot or severely punished! Would not the Consul have been a fitter representative of Botany Bay than of the United States of America, had he been capable of hesitating to make proffer of his oath to what he had heard from the only American eye-witness?

62. The said article continues: "

> These are the brief outlines of the four principal matters of complaint against the Consul; in addition to these grievances, it appears that Mr. Trist has pursued an uniform system of insulting and oppressing the captains of American vessels, of truckling and toadying to the Spanish authorities, of taking sides with the latter invariably in preference to supporting the honor and interests of his own country, and in every instance where an explanation has been demanded at his hands, of treating the request with contempt, and the petitioners with insolence and abuse. "

"An uniform system of insulting and oppressing the Captains of American Vessels."

"An uniform system of truckling and toad=ying to the Spanish authorities, of taking sides with the latter invariably in preferena to supporting the honor and interests of his own country."

"In

"In every instance where an explanation has been demanded at his hands, of treating the request with contempt, and the petitioners with insolence and abuse."

1. In regard to each of these allegations, can a single fact be stated, to give it a definite shape and tangibility?

2. Supposing such facts to be stated, could the slightest belief attach to them, except upon the most conclusive proof, after the grounds for distrust or rather absolute <u>disbelief</u>, afforded by the character of "the four specific charges" selected as the main ground of attack?

63. The

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said article continues: "

These outrages on the part of Mr. Trist grew to such a height towards the commencement of 1839, that on the arrival of the sloop of war Boston off Havana, the American residents, merchants, and captains of vessels there, drew up a strong memorial to Capt. Babbitt, requesting his interference on behalf of his oppressed countrymen. The following extracts from the memorial will serve to convey some faint idea of the state of feeling on this subject amongst the Americans in Havana, and the grievances complained of:—

"We, the undersigned American citizens, cannot witness your departure from this port without tendering our grateful thanks to you and your benevolent officers, for your very friendly and prompt intercession with the Spanish authorities in favor of the Americans incarcerated in this metropolis, and particularly the crew of the American ship William Engs, and also, our much respected friend, Captain Abraham Wendell, Jr., of Salem, Massachusetts; who have been most unjustly and maliciously abused and cowardly deserted by the Consul of the United States for this place, Nicholas P. Trist.

"Most respectfully do we, at the same time that we tender you our thanks and gratitude, feel it impossible for us to repress our deep emotions of regret that any duty renders it indispensable for you to return to Pensacola before you can make a more strict investigation of the cause of the imprisonment of the aforesaid Americans. We cannot imagine of a higher duty that can possibly demand your immediate attention than searching into the individual cases of these sufferers, and likewise the conduct of the Consul.

"Being impressed with this view on this most important subject, we respectfully urge you to delay your departure, and remain a sufficient time for your reception of certain documents from the Captain General, the highest authority, with full statements concerning such American prisoners as have supplicated your assistance, and be assured we doubt not you will not only meet the approbation of our countrymen and government, but you will have the pleasing satisfaction of being the instrument of rescuing innocence from the contaminating influence of vice.

"We are compelled to speak thus fully to you in behalf of our countrymen, as the well known imbecility of the present occupant of the United States Consulate, and his evident malicious designs would render abortive any other mode of proceeding.—Witness the insignificant and pusillanimous remarks of the Consul at the conclusion of his letter, dated December 10, 1838, and there you will find the clear testimony of his attempt to avoid your co-operation in this busines, and his determination to be sole dictator, which, if successful, would keep the Wm. Engs' crew at hard labor and perhaps in chains during the term of two years, while at the same time he openly declares, 'that if their story be true, the Captain of said vessel ought now to be engaged in breaking stones in their stead.' In another paragraph, he states, 'that upon becoming aware of their account of the affair, which was not until after their condemnation, my belief in its probability led me to take steps in their behalf, which will, I hope, be attended before long with a favorable result' This we believe to be absurd in the extreme, and a deep stratagem to deceive you and the American Government, for the plain unvarnished facts are seen by the corroborating testimony in the declarations of the crew, who prove that they had often wrote to the Consul for aid and protection, *before their trial.*

"And in regard to the imprisonment of our worthy and respectable countryman Capt. A. Wendell, Jr., we know, and therefore honestly state, that immediately after his incarceration, several of our most respectable and honorable American Captains waited upon the Counsel, and inquired of him the cause why, and the authority by which, Capt. Wendell was thus treated, and were told by him (the Consul) that it was not him, but the Captain General who imprisoned Capt. Wendell.

"This answer, so unlooked for, led to further investigation, which resulted in the fact, that the Captain General gave the order predicated upon the statement and supplication of the evasive Consul, for the incarceration; looking to the Consul for the proof of his allegations, in order to have him convicted and condemned. We understand, likewise, that the witnesses the Consul brought forward, knew nothing against the Captain, although he, the Consul, used his most strenuous exertions to make it appear that Capt. W. drank liquors to excess; while the communications against the notorious drunken mate, he, (the Consul) suppressed.

"Under these particular circumstances of these cases, we entreat you, sir, as countrymen, and for the benefit of humanity, to remain a sufficient time here for the object of communicating with the venerable Captain General concerning the destitute and suffering Americans, now in prison and undergoing punishment for alleged offences on board of American vessels, and we trust that your proceedings will be transmitted to the American Government, and speedily convince it of the importance of forthwith appointing for this place, a Consul, who, not only is qualified for the duties of the office, but one who has at heart the feelings of an American, and who will execute his high trust impartially and promptly.

"The commerce of the United States is daily augmenting with this port, and therefore it becomes an imperative duty of the American Government, to appoint for this Consular station a man adequate to render all due economy and prosperity to the shipping interest, and one who will avoid litigations with the masters, officers, and seamen in the tribunals here."

In the above introductory paragraph to these extracts from the "strong memorial", it is stated to have been drawn up "on the arrival of the Sloop of War Boston off Havana;" and to have had for its object to "request his interference

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on behalf of his oppressed countrymen." From the very first sentence of the extracts, (which appears also to be the first sentence of the memorial) the memorial seems on the contrary, to have been drawn up in the form of a farewell address, just at the moment when the memorialists were about to be compelled to "unless your departure from this port;" and "tendering our grateful thanks" for past services.

From the second paragraph of these extracts, it further appears that, besides the tender of "thanks" for past services, which constituted the primary object of the memorial, a secondary object, which the writers found it "impossible" not to append to the main one, was, the expression of "our deep emotions of regret that any duty renders it indispensable for you to return to Pensacola", until the further service should have been rendered of making "a more strict investigation of the cause of the imprisonment of the aforesaid Americans."

Thus far, the second paragraph seems to consider it a settled matter and certain, that duty does render it "indispensable for you to return to Pensacola before" accomplishing the important service for which the memorial would have wished him to stay, had it not been seen to be indispensable for him to go.

Before it comes to a close, however,

this

this second paragraph plucks up courage so far as to express the opinion, — "We cannot imagine a high= =er duty that can possibly demand your immediate attention than searching into the individual cases of these sufferers, and likewise the conduct of the Consul."

This verges upon a prayer to stay, in spite of the <u>indispensable</u> necessity of going. Accordingly, this prayer bursts forth at the opening of the next paragraph: "Being impressed with this view of this important subject, we respectfully urge you to delay your departure."

But it is no longer for the purpose of making "a more strict investigation" or of "searching into the individual cases." He is asked only to "remain a sufficient time for <u>your reception</u> of <u>certain docu=</u> =<u>ments</u> from the Captain General, the highest authority, with full statements concerning such American prisoners as have supplicated your assistance."

By way of encouragement to accede to this urgent entreaty, Commander B. is told to "be <u>assured</u> we doubt not you will not only <u>meet</u> <u>the approbation</u> of our countrymen and govern= =ment, but you will have the pleasing satis= =faction" &c —

1. Considering this address and the account

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of it given in the article containing these extracts, in connection with all the facts which investigation may develope regarding the time when it bears date, – the time when it was delivered, – the time when the Boston entered the port of Havana in January 1839, – and the position in which Commander Babbit's orders placed him with regard to visiting the port of Havana, or lying there any time, – are they or are they not a palpable attempt to practice imposition upon the Government and the People of the United States ?

2. Why, in the introductory paragraph, containing the Herald's account of the address, is it stated to have been drawn up, on the "arrival" of the Boston ? Why, on her arrival "off" Havana ? Thereby conveying the idea, not only that his detention at Havana was caused by his compliance with this memorial; but that he was actually drawn into the port by it alone, and would otherwise not have entered! Was there anything in Commander B's. position to render it expedient that this should be believed ?

3. From the first and second of the paragraphs extracted from the address, it appears that the writers were apprised that the Boston was about to sail, and that this could not be deferred: her Commander's duty rendering it "indispensable"

that

that he should return forthwith to Pensacola.
The tone and substance both imply that the writers had previously conferred with Commander Babbit, — that being informed of his intended departure, they had urged him to delay it for a particular purpose, — and that they had been informed by him that this was impossible, inasmuch as his duty absolutely required his "return to Pensacola."

Is it usual for commanders in the U. S. Navy, or any other, to make it publicly known when they purpose to sail? If nay, how had the writers of this address obtained that information of Commander B's. intended departure, which caused them to seek that conference in which they had become informed of the impossibility of his delaying his departure? At what time had this conference taken place? Who were the parties to it?

4. From the same parts of the address, it appears that they had already ascertained that he could not delay his departure, even for the purpose of making "a more strict investigation" &c. Of course, the importance of his pursuing this investigation must have been urged before the writing of the address; and he must at that time have held out against the considerations urged in behalf of his delaying his departure.

Was the address attended with the effect

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of inducing him to delay his departure? If aye, what new considerations did it urge, in addition to those which had proved ineffectual?

5. What were the "certain documents from the Captain General," with regard to which Commander B. was urged to delay his departure a sufficient time for their "reception"? What reason had he at this date for expecting such documents? How came the writers of the memorial to know any thing about that expectation?

6. How came they to think of offering him encouragement, and desiring him to "be assured" with regard to "the approbation of our countrymen and government"? Does this feature of the address go towards betraying out of what it arose? Does it afford ground for supposing that the writers had been informed that the position in which he stood was such as to subject him to disapprobation unless it could be warded off by a memorial which should make it appear that the "duty" which rendered it "indispensable for you to return to Pensacola" had been postponed only in compliance with an earnest entreaty on behalf of his injured countrymen!

64.

64. The said article concludes:

"In the correspondence which took place between Capt. Babbit and the Consul, the language and phraseology of the latter was coarse, vulgar, insolent and ignorant in the extreme. In the very onset, when Capt. B. asked for information in relation to the two captains, and the seamen, the Consul replied, that in relation to the two first, they had already taken up so much of his time he could bestow no more words or time upon the subject. With regard to the last, he had caused them to be dealt with as he thought proper, and that if he had wanted Capt. B.'s interference he would have sent for him. He said that nothing that the American captains could say against him was worthy of the least evidence; that the respectable merchant who headed the memorial, was 'the most dirty and sneaking knave knows to him by reputation;' that Dr. Bumstead was 'a character of the deepest infamy,' and that the third (the nephew of Mr. Throop, U. S. Consul at Naples,) was 'probably the son of respectable parents, but a congenial spirit with the other two.' When asked for copies of the testimony against the Americans, he coarsely refused to give them. When asked by Capt. B. to use his influence in favor of the suffering Americans, he replied with insolence, that they deserved all that they had got, and that he should not take their part either at Capt. B.'s dictation or request. His official answers to the Captain's official letters he left with a grocer. When applied to about some most important documents to be forwarded to this government, he said that it was too much trouble to go into particulars. He allowed the authorities of Havana, in the case of Purser Southall and the officers of the sloop of war Boston, to stigmatize them as 'these military men of the United States, as they call themselves,' and he not only did not remonstrate against such language, but actually approved it. When asked by Capt. B. to stir in this matter, he replied—'I decline to tell you; I know nothing about it—I dont want to know—but the affair will be a seasonable warning to upstart officers when they land here hereafter.'

We might multiply instances of this nature, but the above are sufficient to show the general tenor of the Consul's line of conduct, in relation to which the memorial and all the correspondence have been transmitted to Washington for the action of the Executive. There are other matters of a grave and important character connected with the Consulate at Havana, that also require strict investigation. There is a strong suspicion that the various slavers detected with American papers, have been furnished with them in some underhanded way or contrivance connected with the American Consulate at Havana. How this has been effected it is not proper to surmise at present; that slavers have got papers thence is strongly believed by a great number of citizens of the soundest judgment. Our government have now the whole subject before them, and it is their duty to sift this matter to the bottom, and reform it. The African slave trade, carried on by American vessels, American sailors, and American papers, is a disgrace to the nation. It is a most serious injury to the South, who are in no way participators in it. The Southern States are abused for the misconduct of some few scoundrels in the North. The system of slavery in the South is a feeling of attachment arising out of the natural moral position of the races which can exist in no other way; whilst the position of the negroes in the North is an unnatural and demoralized position. The whole of this matter, therefore, we repeat, should be thoroughly sifted by our Government, and if they do their duty, little doubt remains that they will instantly recall Mr. Trist, and substitute an American who will protect American interests in preference to all other."

Bearing in mind the peculiar character belonging to this article, if it be one to the publication of which Commander Babbit or Purser Southall or any other officer of the Boston was a party, — it presents the following among other points:

1. "In the correspondence" &c. Is this assertion true? Is it not the very reverse of the truth? Was not the course pursued by the Consul marked by extreme forbearance throughout?

2.

2. "With regard to the last, he had caused them to be dealt with as he thought proper" &c. Is not this a pure invention: the very reverse of truth?

3rd "He said that nothing that the American Captains could say against him was worthy of the least credence." Is this stands, and particularly when considered in connection with the character imputed to the Consul throughout the whole article, the remarks ascribed to him is evidently meant to be understood, as it will be understood, as applying to "the American Captains" as a class. Is it not an utter falsehood, with nothing to rest upon except the Consul's remarks with regard to two particular individuals?

4th "That the respectable merchant" &c. Here is involved an assertion of the respectability of Mr. Ferdinand Clarke. Is the assertion true or is it false?

5. "When asked for copies of the testimony against the Americans, he coarsely refused to give them." Is this or is it not, both as to the asking and the refusal, a pure fiction? If nay, where did either the asking or the refusal take place? Where? Who were the parties and the witnesses?

6. "When asked by Captain B. to use his influence in favor of the suffering Americans, he replied

replied with insolence, that they deserved what they had got, and that he should not take their part either at Captn. B's dictation or request."

Is this or is it not, a pure fiction, an absolute in-vention, in every one of its parts? If nay, what part is it that has any truth in it? Was the request in writing, or was it oral? If the former, where is the copy and the answer? If the latter, on what day was it made? At what place? In presence of whom?

7. "His official answers to the Captain's official letters he left with a grocer."

This averment is so framed as to apply to all the Consul's answers. Is it true that, in any single instance, one of the Consul's answers was "left with a grocer," in the sense that will be understood by every reader? Is it true that, except in a single instance, any pretext for this as-sertion was ever afforded?

8. "When applied to about some most important documents to be forwarded to this Government, he said it was too much trouble to go into particulars!!"

Is this or is it not a pure fiction, an absolute invention, in all its parts? If nay, when, where, by whom, in presence of whom, was the application made? What were the documents applied for?

9. "He allowed the authorities of Havana, in the case of Purser Southall and the officers of the Sloop of War Boston, to stigmatize them as 'these military

men

men of the United States, as they call themselves; and he not only did not remonstrate against such language, but actually approved it."

This has reference, doubtless, to a passage in the Judicial opinion given by the Auditor of War, which is as follows: "If it be true that consideration is due to the important circumstance that these foreigners "(meaning the Purser and his companion, Mr Sturgis of Boston) "were ignorant of the language of the country, and for that reason might be not fully aware of the gravity of the fault into which they fell, – neither can it be lost sight of, that being military officers of the United States, as they claim to be, they neither can nor ought to be ignorant of the respect due to a centinel in their own country, which is the same that he is entitled to by our military code and that of all civilized nations."

Is there any stigma cast here, or attempted to be cast, upon any one?

If yea, is it cast upon "Purser Southall and the officers of the Boston"?

Supposing "such language" to afford ground for remonstrance, what ground did Commander B. possess for the assertion that the Consul "did not remonstrate against" it? What knowledge did he possess of any thing that the Consul did or did not do?

"But" the Consul "actually approved it." Is this or is it not another pure fiction? If nay, then when

was

was an occasion offered for him to approve or disapprove it? What gave rise to this occasion? At what place, at what time, to whom, in whose presence did he express approbation of it?

10. "When asked by Capt. B. to stir in this matter, he replied — 'I decline to tell you; I know nothing about it — I dont want to know — but the affair will be a seasonable warning to upstart officers when they land here hereafter.'"

Is this or is it not a <u>pure fiction</u>? If nay, was Captain B's request conveyed by letter or orally? If the former, where are the letter and the reply? If the latter, at what time and place, and in whose presence have Captain B. and the Consul ever met since the visit made by the former to the latter on the 5th of January, nearly a month before the adventure of Purser Southall?

65. In the last of the above quoted passages from the
65 Herald, the Consul is alleged to have said "that the respectable merchant <u>who headed the memorial</u> was 'the most dirty, sneaking knave known to him by reputation'."

Here, this expression of the Consul's is so reported as to connect it with the assertion that it was made <u>with express reference to the memorial against him</u>. He is represented as thus meeting that

memorial

memorial, when presented for his consideration, or made known to him.

This statement involves, of course, the double assertion, that the memorial was communicated to the Consul; or at least, that he became aware of whom it was headed by; and that this had occured prior to the time when the remarks was made by him.

1. What evidence is there that the memorial ever was communicated to the Consul?

2. What evidence is there that the Consul ever possessed any knowledge whatever of any single particular of any kind connected with said memorial, (beyond the mere report that a paper or papers of that description was circulating for signatures) until such knowledge was afforded by the article published in the Pensacola Gazette, and that published in the New York Herald of June 15. 1839?

3. Taking for granted the fact that the said memorial was communicated to the Consul on the day when it bears date, or may be proved to have been delivered to Commander Babbit: how does said date compare with the 10th December 1838?

4. Is the above character of the merchant in question contained in the Consul's letter to Commander B. of the 10th December 1838?

5. Was it there given by the Consul with reference to the fact that the said merchant had "headed the memorial" against him? Or was it given with reference to the fact that Commander Babbit having been referred to said merchant, as a person who could substantiate certain state=-ments contained in the letter addressed to him by Captain Wendell, had made known said reference to the Consul?

6. Considering the respective positions occu=-pied by Commander B. and the Consul, as two officers of the government, upon the receipt by the latter of the communication of the former under date the 10th December 1838: was it pro=-per, or was it not, for the Consul to make Commander B. acquainted with the true characters, to the best of his knowledge and belief, of the persons vouched by Capt: Wendell to substantiate his statements?

7. Supposing such a course on the part of the Consul to have been highly improper: is it at all identical with that imputed to him in the statement now under consideration?

8. If nay, which of the two is the most reprehensible? If it be the fictitious course, can its substitution for the true one in this account

of

of the Consul's conduct be viewed at any thing other than a deliberate and malicious falsehood?

Supposing the memorial addressed to Commander Babbit to prove upon inquiry to be, both upon its face and in its history, proof against every other possible objection, is a belief in the good faith of that proceeding reconcileable with the fact, that it was not adopted in the month of December 1838, when the harbor of Havana was visited by three American Sloops of war: the Boston from the 2nd to the 11th of December; the Ontario from the 3rd of December to the 7th of January; and ~~in the fact, that the~~ the from the to the

Is the fact, that these opportunities for adopting such a measure were allowed to pass off (particularly, under the utter uncertainty in which every one at Havana must have been, as to how long a time might elapse before another should occur) at all reconcileable with a belief in the reality of the strong grounds for such a measure, which, a few weeks after, were alleged to have been for so long a time accumulating?

Havana Consulate No. 84. Enclosure No. 1.

(Documents)

Personage No. 1. W. Ferdinand Clark

(This is an original document to be carefully preserved in the Department of State. It is not necessary that it should ever go thence, inasmuch as there is a copy accompanying the other papers.)

Havana Consulate No. 84.

(Documents.)

Enclosure No. 1.

Sub-enclosure Document No. 3.

Ferdinand Clark.

This copy sent with the original, in order that the latter may be carefully preserved. [illegible]

(Copy)

John. A. Smith Esq.r

Vice Consul

Dear Sir,

I am sorry to hear of your indis-position. I have lately received a Comm.n from the District Court Massachusetts to be executed by you or Mr. Trist; & no other person being named, & in con-sequence of yr. indisposition, & Mr. Trist's observa-tions to me, well known to you, I am at this moment of opinion that if you cannot attend to it that I shall be under the necessity of having a new Comm.n sent out: for I am interested, & the knowledge I have from time to time of Mr. Trist's observations, convinces me that he is & has been Hostile to me,; the reasons are best known to him, & I trust the time is not far distant when a person will fill the office who will know the necessity of treating me with all due respect.

truly

(signed) Fd. Clark

Hav.a June 20. 1838.

(4)

This copy having been made in black ink, & under it more easily intelligible, and to avoid alterations & interlineations according to the original, & hence it is, the punctuation particularly is so. The marks of quotation [illegible]

I, John. A. Smith, Vice Consul of the United States of America at Havana, do hereby certify, that the note, upon the back of which this is written, is a true and exact copy, word for word, letter for letter, and mark for marks, of a note in the handwriting (to me well known) of Ferdinand Clark, an American merchant residing at this place; which original note was received by me on the 20th of June 1838, upon which day it was handed by me to Mr. Trist the Consul. — Havana, December 21. 1839.

J. A. Smith.

We the undersigned, american and other residents at Ha-
-vana, do hereby certify, that the note, upon the back of which this is written, is a true and exact copy, word for word, letter for letter, and mark for marks, of an original note in the handwriting (to us well known) of Ferdinand Clark, an american mer-
-chant residing at this place. Havana, December 21. 1839. —

Edw. Shalding

Wm S Rowe

F. Delamimeth

J. Hennings

Geo Knight

C D Dome

Robert Mercier

Havana Consulate No. 84. (Documents.) Enclosure No. 1.

Ferdinand Clark. Document No. 3.

Ver. June 20. '38

John A Smith Esq
Vice Consul
Dear Sir

January I hear of your endeavoring
I have lately received a Com from the District
Court Massachusetts to be executed by you or m
said & no other person being named in consequence
of your misdisposition & mr Just observations to me
well known. I Sir, I am at this moment
of opinion that if you cannot attend to it
that I shall be under the necessity of having
them Com sent out for I am interested
the knowledge I have from time & time
of mr Just observations convinces me that
he is that been Hostile to me. the reason
are best known to him & I trust the
time is not far distant when a person
will fill the office who will know
the necessity of treating me with
due respect.

I am Sir
Your Obt Servt
F. Clark

Ver. June 20 1838

The marks of quotation should not be
at the beginning of this
note, must not be left
out to have been
used as marks of quo-
tation. They are a kind
of [illegible] writing
calculated to mis-
lead the reader
unacquainted
with it.

I, John A. Smith, Vice Consul of the United States of America, at Havana, do hereby certify, that the note, upon the back of which this is written, is in the handwriting (to me well known) of Ferdinand Clark, an American merchant residing at this place, and that said note was received by me on the 20th day of June 1838, upon which day it was handed by me to Mr. Trist, the Consul. — Havana December 21st 1839. —

J. A. Smith.

We, the undersigned, american and other residents at Havana, do hereby certify, that the note, upon the back of which this is written, is in the handwriting, to us well known, of Ferdinand Clark, an american merchant residing at this place. Havana, December 21st 1839. —

Edw Spalding

Wm S Rennie

J. Henninger

Robert Morrison

Ed Trimé

F. De Sprinchk

Chas Knight